JOURNAL

of the

HOUSE OF REPRESENTATIVES

of the

GENERAL ASSEMBLY

of the

COMMONWEALTH OF KENTUCKY

Regular Session of 1976

Volume I

Held in the State Capitol in the Capital City of Frankfort, at
Frankfort, in the Year of Our Lord 1976, and
in the One Hundred and Eighty-fourth
Year of the Commonwealth

Begun on the Sixth Day of January, 1976, and Adjourned
Sine Die on the Twentieth Day of March, 1976

Paid from State Funds

FOREWORD

The Constitution requires each house of the General Assembly to keep a Journal of its proceedings. The Journal is intended to assure a public account of legislative activity and constitutes the final official record of action by the General Assembly.

Under the provisions of Section 6.161, 6.162 and 57.151 of the *Kentucky Revised Statutes,* the Legislative Research Commission is responsible for comparing, editing, correcting, and publishing the Journals as approved by each house of the General Assembly. This volume represents the fullfillment of this obligation for the House of Representatives of 1976.

The text of a bill is spread in full when it receives a first reading. The roll call on passage of a bill is indicated upon its receipt of a third reading, or upon concurrence by the originating house in amendments by the second house. Simple and concurrent resolutions are printed on first reading when applicable or when adopted, and joint resolutions are treated as bills. A table of actions on bills and resolutions is appended.

Mrs. Shan Stone Gray and Mrs. Martha Jane Rogers prepared the 1976 House Journal. The edited copy and index found in this volume reflect the cooperative efforts of the commission's staff.

PHILIP W. CONN
Director

The Capitol
Frankfort, Kentucky

JOURNAL
OF THE
HOUSE OF REPRESENTATIVES
OF THE
COMMONWEALTH OF KENTUCKY

REGULAR SESSION, 1976

TUESDAY, JANUARY 6, 1976

FIRST LEGISLATIVE DAY

At a General Assembly of the Commonwealth of Kentucky, held at the Capitol in the City of Frankfort, and begun on January 6, 1976, the one hundred and eighty-fourth year of the Commonwealth, in accordance with the provisions of the Constitution, Acting Clerk Sara Bell assumed the Chair and called the House to order.

Prayer by Reverend Bob Brown of the Trinity Baptist Church, Lexington.

The Clerk read the following certificate from the Secretary of State:

COMMONWEALTH OF KENTUCKY

FRANKLIN COUNTY

I, Drexell R. Davis, Secretary of State of the Commonwealth of Kentucky, do hereby certify that, according to the records in the Office of the Secretary of State of the Commonwealth of Kentucky, and the best information obtainable, the attached is a true and correct list of the duly elected and qualified members of the House of Representatives of the General Assembly of the Commonwealth of Kentucky.

Given under my hand and seal of office, this 5th day of January, 1976.

DREXELL R. DAVIS
Secretary of State
Commonwealth of Kentucky

Members of the House of Representatives

1976 Kentucky General Assembly

1ST DISTRICT
Ward (Butch) Burnette (D)
404 Fourth Street
Fulton, Kentucky 42041

2ND DISTRICT
Lloyd Clapp (D)
Box 85
Wingo, Kentucky 40288

3RD DISTRICT
Fred Morgan (D)
2057 Broad Street
Paducah, Kentucky 42001

4TH DISTRICT
J. W. Boatwright, Jr. (D)
Route 7, Box 130
Paducah, Kentucky 42001

5TH DISTRICT
Kenneth C. Imes (D)
201 South Third Street
Murray, Kentucky 42071

6TH DISTRICT
J. R. Gray (D)
Route 3, Jackson School Road
Benton, Kentucky 42025

7TH DISTRICT
Joe McBride (D)
Route 1
Waverly, Kentucky 42462

8TH DISTRICT
H. Ramsey Morris, Jr. (D)
Rural Route 2
Hopkinsville, Kentucky 42240

9TH DISTRICT
James E. Bruce (D)
Route I
Hopkinsville, Kentucky 42240

10TH DISTRICT
William T. Brinkley (D)
311 West Lake Street
Madisonville, Kentucky 42431

11TH DISTRICT
Gross C. Lindsay (D)
783 Woodspoint Drive
Henderson, Kentucky 42420

12TH DISTRICT
Joe Head (D)
Route 1
Providence, Kentucky 42450

13TH DISTRICT
Charles S. Wible (D)
2940 Tanglewood
Owensboro, Kentucky 42301

14TH DISTRICT
Donald J. Blandford (D)
Route 1
Philpot, Kentucky 42366

15TH DISTRICT	Eugene Doss (D) 701 Ryan Hill Central City, Kentucky 42330
16TH DISTRICT	Lewis Foster (D) Route 2 Lewisburg, Kentucky 42256
17TH DISTRICT	Willard (Woody) Allen (R) Route 2, Box 123 Morgantown, Kentucky 42261
18TH DISTRICT	Mary Ann Tobin (D) Irvington, Kentucky 40146
19TH DISTRICT	G. W. (Bill) Vincent (D) Route 1 Leitchfield, Kentucky 42254
20TH DISTRICT	Jody Richards (D) 1022 Ridgecrest Drive Bowling Green, Kentucky 42101
21ST DISTRICT	Buddy Adams (D) Route 3 Bowling Green, Kentucky 42101
22ND DISTRICT	Richard A. Turner (R) Route 4 Tompkinsville, Kentucky 42167
23RD DISTRICT	Bobby H. Richardson (D) Route 7, Highway 31E Glasgow, Kentucky 42141
24TH DISTRICT	Sam B. Thomas (D) Route 1, Old Calvary Road Lebanon, Kentucky 40033
25TH DISTRICT	Allene A. Craddock (D) 710 Woodland Road Elizabethtown, Kentucky 42701
26TH DISTRICT	Nick L. Pearl (D) 894 Mary Court Radcliff, Kentucky 40160
27TH DISTRICT	Archie N. Romines, Sr. (D) 13312 Tennis Boulevard Valley Station, Kentucky 40272
28TH DISTRICT	James R. Dunn (D) 5009 Maryman Road Pleasure Ridge Park, Kentucky 40258
29TH DISTRICT	Al Bennett (D) 3518 Blanton Lane Louisville, Kentucky 40214

30TH DISTRICT
Jon W. Ackerson (R)
7405 Cross Creek Court
Louisville, Kentucky 40228

31ST DISTRICT
Mark D. O'Brien (D)
36 South Sheridan Road
Louisville, Kentucky 40220

32ND DISTRICT
Bruce Blythe, Jr. (R)
516 Altagate Road
Louisville, Kentucky 40206

33RD DISTRICT
Bob Benson (D)
2937 White Plains Road
Louisville, Kentucky 40218

34TH DISTRICT
Gerta Bendl (D)
2403 Newburg Road
Louisville, Kentucky 40205

35TH DISTRICT
Carl A. Nett (D)
1268 Lydia Street
Louisville, Kentucky 40217

36TH DISTRICT
Michael W. Wooden (D)
4540 Park Boulevard
Louisville, Kentucky 40209

37TH DISTRICT
M. J. (Jerry) Kleier (D)
335 West Southside Court
Louisville, Kentucky 40214

38TH DISTRICT
Dexter S. Wright (R)
5026 South 3rd Street
Louisville, Kentucky 40214

39TH DISTRICT
Lawrence Ray Maynard (D)
1340 South Sixth Street
Louisville, Kentucky 40203

40TH DISTRICT
George R. Siemens, Jr. (D)
2919 1/2 Dixie Highway
Louisville, Kentucky 40216

41ST DISTRICT
Mae Street Kidd (D)
2308 West Chestnut
Louisville, Kentucky 40211

42ND DISTRICT
Charlotte S. McGill (D)
3016 River Park Drive
Louisville, Kentucky 40211

43RD DISTRICT
Norbert L. Blume (D)
4224 Northwestern Parkway
Louisville, Kentucky 40212

44TH DISTRICT
James B. Yates (D)
2305 Thurman Drive
Shively, Kentucky 40216

45TH DISTRICT Dottie Priddy (D)
3702 South Park Road
Louisville, Kentucky 40229

46TH DISTRICT Robert F. Hughes (D)
7509 Dunwoody Court
Louisville, Kentucky 40219

47TH DISTRICT Edward L. Holloway (R)
10705 Sunderland Place
Middletown, Kentucky 40243

48TH DISTRICT Louis R. Guenthner (R)
2110 Dogoon Drive
Louisville, Kentucky 40223

49TH DISTRICT Thomas B. Givhan (D)
4506 East 44th Street
Shepherdsville, Kentucky 40165

50TH DISTRICT John Hurst (D)
Route 1
Bloomfield, Kentucky 40008

51ST DISTRICT Herman W. Rattliff (R)
Route 3
Campbellsville, Kentucky 42718

52ND DISTRICT Raymond Overstreet (R)
Riverside Estates, Box U
Liberty, Kentucky 42539

53RD DISTRICT Charles (Chuck) Hardwick (R)
Betsy, Kentucky 42606

54TH DISTRICT Joe Clarke (D)
420 Boone Trail
Danville, Kentucky 40422

55TH DISTRICT Forest (Aggie) Sale (D)
520 Beaumont Avenue
Harrodsburg, Kentucky 40330

56TH DISTRICT John V. Carpenter, Jr. (D)
Route 4, Rainbow Drive
Nicholasville, Kentucky 40356

57TH DISTRICT C. M. (Hank) Hancock (D)
514 Murray Street
Frankfort, Kentucky 40601

58TH DISTRICT David Gray Mason (D)
Route 1, Murberry Pike
Eminence, Kentucky 40019

59TH DISTRICT Robert A. Jones (D)
Lot 22, Farmington Lane
Box 203
Crestwood, Kentucky 40014

60TH DISTRICT	William K. McBee (D) 500 Florence Pike Burlington, Kentucky 41005
61ST DISTRICT	Clay Crupper (D) 25 Wilron Drive Dry Ridge, Kentucky 41035
62ND DISTRICT	Mark Fitzgerald (D) Route 6, White Oak Pike Cynthiana, Kentucky 41031
63RD DISTRICT	Louis DeFalaise (R) 33 West Maple Ft. Mitchell, Kentucky 41017
64TH DISTRICT	Phillip E. King (D) Box 212, Senour Road Ft. Mitchell, Kentucky 41017
65TH DISTRICT	John J. Isler (D) 1813 Jefferson Avenue Covington, Kentucky 41014
66TH DISTRICT	Elmer C. Dietz (D) 514 Linden Ludlow, Kentucky 41016
67TH DISTRICT	Terry L. Mann (D) 19 Douglas Drive Newport, Kentucky 41071
68TH DISTRICT	William Donnermeyer (D) 333 Bonnie Leslie Avenue Bellevue, Kentucky 41073
69TH DISTRICT	Arthur L. Schmidt (R) 134 Winters Lane Cold Spring, Kentucky 41076
70TH DISTRICT	Dr. Mitchel B. Denham (D) 506 Forest Avenue Maysville, Kentucky 41056
71ST DISTRICT	Woodford (Woody) May (D) Woodsbend, Kentucky 41472
72ND DISTRICT	Jim LeMaster (D) 256 Swigert Avenue Lexington, Kentucky 40507
73RD DISTRICT	Paul W. Richard (D) 72 Milwood Winchester, Kentucky 40391
74TH DISTRICT	Adrian Arnold (D) Route 3, Aarons Run Road Mt. Sterling, Kentucky 40353
75TH DISTRICT	William Gordon Kenton (D) 343 Woodland Avenue Lexington, Kentucky 40508

76TH DISTRICT Steven L. Beshear (D)
317 Mariemont Drive
Lexington, Kentucky 40505

77TH DISTRICT Glenna A. Bevins (D)
1709 Normandy Road
Lexington, Kentucky 40504

78TH DISTRICT Larry J. Hopkins (R)
1870 Parkers Mill Road
Lexington, Kentucky 40504

79TH DISTRICT Don W. Stephens (D)
1909 Blairmore Road
Lexington, Kentucky 40502

80TH DISTRICT William Harold DeMarcus (R)
Route 2
Stanford, Kentucky 40484

81ST DISTRICT Dwight Wells (D)
Route 7
Richmond, Kentucky 40475

82ND DISTRICT Ernie Siler (R)
Siler Route, Box 52G
Williamsburg, Kentucky 40769

83RD DISTRICT Lavey Floyd (R)
Poynter, Kentucky 42501

84TH DISTRICT Charles P. (Doots) Muncy (R)
112 Maple
Irvine, Kentucky 40336

85TH DISTRICT Albert Robinson (R)
Pittsburg, Kentucky 40755

86TH DISTRICT Jimmy White (D)
324 North Main Street
Barbourville, Kentucky 40906

87TH DISTRICT George E. Stewart (D)
528 Kentucky Avenue
Pineville, Kentucky 40977

88TH DISTRICT Glenn R. Freeman (D)
127 Lynn Street
Cumberland, Kentucky 40823

89TH DISTRICT John Raymond Turner (D)
929 1/2 Highland Avenue
Jackson, Kentucky 41337

90TH DISTRICT Clay Gay (R)
Box 990
Hyden, Kentucky 41749

91ST DISTRICT Hoover Dawahare (D)
Hayes Street, Box 540
Whitesburg, Kentucky 41858

92ND DISTRICT	Sidney Adams (D) Littcarr, Kentucky 41834
93RD DISTRICT	N. Clayton Little (D) Box 404 Hartley, Kentucky 41532
94TH DISTRICT	Herbert Deskins, Jr. (D) Box 423 Pikeville, Kentucky 41501
95TH DISTRICT	James (Jitter) Allen (D) Rural Route 2 Martin, Kentucky 41649
96TH DISTRICT	Jackie Ray Cooper (R) 311 Rowley Avenue Vanceburg, Kentucky 41179
97TH DISTRICT	W. D. (Doc) Blair (R) 1252 Stafford Avenue Paintsville, Kentucky 41240
98TH DISTRICT	Ronald R. Cyrus (D) Route 1, E. K. Road Greenup, Kentucky 41144
99TH DISTRICT	Ray O. Brown (D) Box 345 Sandy Hook, Kentucky 41171
100TH DISTRICT	Charles Holbrook III (R) 2735 East Grove Ashland, Kentucky 41101

The roll was called. All members present.

Representative Bobby Richardson moved that the Certificates of Election be confirmed. Agreed.

Said representatives produced their Certificates of Election, appeared before the Presiding Officer and were administered their oaths of office by The Honorable Scott Reed, Chief Justice of the Supreme Court of Kentucky.

Representative Donnermeyer moved the nomination of William G. Kenton as Speaker of the House of Representatives. Agreed.

Representative Bobby Richardson moved that the nominations cease. Agreed.

Representative Bobby Richardson moved that William G. Kenton be elected Speaker of the House of Representatives by acclamation. Agreed.

Representative William G. Kenton was elected Speaker of the House of Representatives. A committee composed of Representatives Kidd, Morgan, Dawahare, and Isler escorted the Speaker to the Chair.

The oath of office was administered to Speaker Kenton by The Honorable Scott Reed, Chief Justice of the Supreme Court of Kentucky.

Speaker Kenton assumed the Chair.

Representative Donnermeyer moved the nomination of Lloyd Clapp as Speaker Pro Tempore of the House of Representatives.

Representative Bobby Richardson moved that the nominations cease. Agreed.

Representative Bobby Richardson moved that Lloyd Clapp be elected Speaker Pro Tempore of the House of Representatives by acclamation. Agreed.

Representative Clapp was elected Speaker Pro Tempore of the House of Representatives. The Speaker appointed a committee composed of Representatives Morgan and Imes to escort the Speaker Pro Tempore to the Chair.

The oath of office was administered to Speaker Pro Tempore Clapp by The Honorable Scott Reed, Chief Justice of the Supreme Court of Kentucky.

Representative Bobby Richardson moved the nomination of the following House Constitutional Officers:

Chief Clerk	Sara Bell
Assistant Clerk	Evelyn Marston
Enrolling Clerk	Margaret Watts
Sergeant at Arms	Stuart Kelly
Chief Doorkeeper	John E. White
Cloakroom Keeper	Harold Conn
Cloakroom Keeper	Bunny Davis
Janitor	T. W. Eastridge
Page	Fred Burch IV
Page	Sandra Shroat
Page	Frances Schneider
Page	Stewart Burch

Speaker Kenton moved that the nominees be elected. Agreed.

The nominees for the House Constitutional Officers were elected and the oath of office was administered by The Honorable Scott Reed, Chief Justice of the Supreme Court of Kentucky.

Representative Donnermeyer announced that the Democratic Party in caucus assembled had elected the following Majority Party House leadership:

Floor Leader	Bobby H. Richardson
Whip	Dwight Wells
Caucus Chairman	William "Bill" Donnermeyer

Representative Rattliff announced that the Republican Party in caucus assembled had elected the following Minority Party House leadership:

Floor Leader	William Harold DeMarcus
Whip	Raymond Overstreet
Caucus Chairman	Herman W. Rattliff

Representative Bobby Richardson moved that the rules by suspended for Introduction of and action on Resolutions. Agreed.

Introduction of Resolutions

HR 8, by Representative B. Richardson: A RESOLUTION authorizing appointment of a committee of the House to wait upon the Senate and the Governor.

HR 8, A RESOLUTION authorizing appointment of a committee of the House to wait upon the Senate and the Governor.

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

That a committee of this House be appointed by the Speaker to wait upon the Senate and notify that body that this House is now organized and ready to proceed to the transaction of business and that said committee shall, in conjunction with a like committee from the Senate, wait upon the Governor and inform him that the General Assembly is now organized and ready to receive any communications he may desire to deliver.

Representative Bobby Richardson moved the adoption of **HR 8.**

HR 8 was adopted by voice vote.

HR 9, by Representative B. Richardson: A RESOLUTION extending an invitation to the pastors of Frankfort churches to open sessions of the House of Representatives with prayer.

HR 9, A RESOLUTION extending an invitation to the pastors of Frankfort churches to open sessions of the House of Representatives with prayer.

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

That the Sergeant-at-Arms be directed to invite the pastors of the various churches of Frankfort to attend the meetings of the House and open the sessions thereof with prayer.

Representative Bobby Richardson moved the adoption of **HR 9.**

HR 9 was adopted by voice vote.

HR 10, by Representative B. Richardson: A RESOLUTION adopting temporary rules to govern the 1976 House of Representatives.

HR 10, A RESOLUTION adopting temporary rules to govern the 1976 House of Representatives.

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. Except as otherwise provided herein the rules adopted by the House of Representatives to govern the 1974 House of Representatives be adopted as the temporary rules governing the session beginning January 6, 1976, to remain in effect by the adoption of permanent rules.

Section 2. Rule 38 of 1974 is amended to read as follows:
Rule 38. Standing Committees. The following shall be the standing committees of the House.
1. Agriculture and Natural Resources
2. Appropriations and Revenue
3. Banking and Insurance
4. Business Organizations and Professions
5. Cities
6. Counties and Special Districts
7. Education
8. Elections and Constitutional Amendments
9. Health and Welfare
10. Highways and Traffic Safety
11. Judiciary - *Statutes*
12. Judiciary—Courts
13. [12.] Labor and Industry
14. [13.] Public Utilities and Transportation
15. [14.] State Government

The standing committees of the House shall operate for the duration of a regular session and throughout any special session. On sine die adjournment of the General Assembly, the standing committees of the House shall be constituted subcommittees of the Legislative Research Commission pursuant to KRS Chapter 7.

Section 3. Rule 39 of 1974 is amended to read as follows:
Rule 39. Appointment of Committees. The Committee on Committees shall appoint the Chairman, Vice Chairman and the members of all standing and special committees and shall fill any vacancies thereon. A

member of the Committee on Committees shall not serve as chairman of a standing committee. The Committee on Committees shall select members of each standing and special committee in proportion to the representation of each political party in the House. The Vice Chairman shall act in the absence of the Chairman. The Chairman of any committee may appoint subcommittees to conduct hearings or study any matters which have been referred to the committee.

Before the Committee on Committees shall appoint the members of standing and special committees the number of members on the committee to be appointed shall be announced to the House. At the same time, the Committee on Committees shall announce the number of members of the committee to be appointed from the majority party and the number of members to be appointed from the minority party.

The Committee on Committees shall not appoint more than *seventeen (17)* [fifteen (15) members to any one standing committee. Every member of the House shall be appointed to at least one standing committee and no member shall be appointed to more than three standing committees.

In appointing the membership of standing committees, the Committee on Committees shall consider the predominant business interests or occupation of each member so that the private interests of a majority of a committee's members do not correspond to the jurisdiction of the standing committee.

Section 4. Rule 40 of 1974 is amended to read as follows:

Rule 40. Jurisdiction of Standing Committees. The Committee on Committees shall refer each bill to the Committee with control over that subject matter. All bills and resolutions on the same subject matter shall be referred to the same committee. The general jurisdiction of the several standing committees shall be:

1. Same
2. Same
3. Same
4. Same
5. Same
6. Same
7. Same
8. Same
9. Same
10. Same

11. Judiciary - *Statutes*: matters pertaining to [the Court of Appeals, circuit courts, county and probate courts, quarterly courts, justices of the peace courts, and police courts; jurisdiction, rules, terms, judges, commissioners, selection, districts, qualifications, compensation and retirement; clerk of courts; juries; attorneys; commissioners and receivers; court reports;] contracts; debtor-creditor relations; ownership and conveyance of property; administration of trusts and estates of persons under disability; descent, wills and administration of decedents' estates; domestic relations; [juvenile courts and] support of dependents; statutory actions and limitations; eminent domain; arbitration; summary proceedings; declaratory judgments; habeas corpus; witnesses; evidence; legal notices; crimes and punishments; construction of statutes; civil and criminal procedure; civil rights.

12. Judiciary—Courts: matters pertaining to the Supreme Court, District Courts, the Court of Appeals, Circuit Courts, County and Probate Courts, Quarterly Courts, Justices of the Peace Courts, and Police Courts; jurisdiction, rules, terms, judges, commissioners, selections, districts, qualifications, compensation and retirement; clerk of courts; juries, attorneys; commissioners and receivers; court reports; and juvenile courts.

13. [12.] Same
14. [13.] Same
15. [14.] Same

Section 5. Rule 41 of 1974 is amended to read as follows:

Rule 41. Rules Committee. There shall be a Rules Committee composed of the Speaker of the House, the Speaker Pro Tempore, the Majority Floor Leader, the Majority Caucus Chairman, the Majority Party Whip, the Minority Floor Leader, the Minority Caucus Chairman, the Minority Party Whip, and not less than *seven* [five] nor more than *nine* [seven] members appointed by the Committee on Committees. All bills and resolutions having been reported out of the committee to which referred and having received their second reading shall be referred to the Rules Committee. The Rules Committee may refer any bill or resolution before it back to a standing committee. Provided, however, that such recommitment shall be accompanied by an explanation of the reason therefor, and that no bill or resolution shall be referred back by the Rules Committee on more than one occasion. No bill may be kept in Rules Committee for longer than five (5) legislative days. Within that time each bill must be reported to the floor or referred back to a standing committee.

Each member shall be given an opportunity upon request to appear before the Rules Committee when a bill of which he is a sponsor or co-sponsor is under consideration including the subsequent vote thereon. No measure shall be posted in the Orders of the Day for final passage except by order of the Rules Committee unless otherwise ordered posted for the next succeeding legislative day by a majority of the members voting. The Rules Committee shall arrange the Orders of the Day so that all measures shall appear thereon for the consideration of the House, but the Rules Committee may not place in the Orders of the Day any bill or other measure in the possession of a standing or special committee of the House. The Rules Committee, prior to each day's session, shall post a notice in a regular place in the House Chamber listing the bills to be considered that day in the Orders of the Day. Should the House not complete any day's Orders of the Day, the bills and resolutions remaining unconsidered shall go to the top of the Orders of the Day on the next day that Orders of the Day are considered.

The Speaker of the House shall act as Chairman of the Rules Committee. The Majority Floor Leader of the House shall act for the Rules Committee in calling from the Orders of the Day any bills or resolutions and shall be recognized by the Speaker for said purpose during all times that the Rules Committee is in charge of posting the Orders of the Day. The Speaker Pro Tempore shall act as chairman in the absence of the Speaker.

Representative Bobby Richardson moved the adoption of **HR 10.**

HR 10 was adopted by voice vote.

The Speaker, pursuant to **HR 8,** appointed the following committee to wait upon the Senate and the Governor: Representatives Kidd, Morgan, Isler, and Lindsay.

Recess

Representative Bobby Richardson moved that the House recess for fifteen minutes for a meeting of the Committee on Committees. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the house to order.

Motions, Petitions and Communications

The Speaker announced the following membership of the Committee on Committees:

William G. Kenton, Chairman (D)
Lloyd Clapp (D)
Bobby H. Richardson (D)
William Harold DeMarcus (R)
William "Bill" Donnermeyer (D)
Dwight Wells (D)

The Speaker announced the following Committee appointments by the Committee on Committees:

AGRICULTURE AND NATURAL RESOURCES

Donald J. Blandford, Chairman (D)

James "Jitter" Allen (D)
Adrian Arnold (D)
Ward Burnett (D)
Clay Crupper (D)
Eugene Doss (D)
Mark Fitzgerald (D)

Joe Head (D)
John Hurst (D)
Jim LeMaster (D)
N. Clayton Little (D)
Woody May (D)
George E. Stewart (D)

Herman Rattliff, Minority Chairman (R)

Willard C. Allen (R)
Lavey Floyd (R)
Richard A. Turner (R)

APPROPRIATIONS AND REVENUE

Joe Clarke, Chairman (D)

Buddy H. Adams (D)
Lloyd Clapp (D)
William "Bill" Donnermeyer (D)
Kenneth C. Imes (D)
Joseph McBride (D)
Woody May (D)
H. Ramsey Morris, Jr. (D)
Carl A. Nett (D)
Mark D. O'Brien (D)
Don W. Stephens (D)
Charles S. Wible (D)
Dwight Wells (D)

Albert Robinson, Minority Chairman (R)

W. Harold DeMarcus (R)
Edward L. Holloway (R)
Arthur L. Schmidt (R)

BANKING AND INSURANCE

James E. Bruce, Chairman (D)

Buddy H. Adams (D)
Ward Burnette (D)
John Carpenter (D)
Herbert Deskins, Jr. (D)
Elmer C. Dietz (D)
Lewis Foster (D)
Mae Street Kidd (D)
Charlotte S. McGill (D)
Paul W. Richardson (D)
George E. Stewart (D)
Sam B. Thomas (D)
Mary Ann Tobin (D)

Edward L. Holloway, Minority Chairman (R)

E. Bruce Blythe (R)
Charles R. Holbrook III
Richard A. Turner (R)

BUSINESS ORGANIZATIONS AND PROFESSIONS

Terry L. Mann, Chairman (D)

Albert Sidney Adams (D)
Al Bennett (D)
Glenna A. Bevins (D)
Norbert Blume (D)
John J. Isler (D)
Phillip E. King (D)
Bill McBee
Dottie Priddy (D)

Eugene Doss (D)
Glenn Freeman (D)
Sam B. Thomas (D)
James Bernard Yates (D)

Arthur L. Schmidt, Minority Chairman (R)

W. D. "Doc" Blair (R)
Ernie Siler (R)
Dexter S. Wright (R)

CITIES

Bob Benson, Chairman (D)

Gerta Bendl (D)
Steven L. Beshear (D)
Norbert Blume (D)
Ronald R. Cyrus (D)
C. M. "Hank" Hancock (D)
Robert F. Hughes (D)
John J. Isler (D)
Jerry Kleier (D)
Ray Maynard (D)
H. Ramsey Morris, Jr. (D)
George R. Siemens, Jr. (D)
Michael W. Wooden (D)

E. Bruce Blythe, Minority Chairman (R)

Louis DeFalaise (R)
Clay Gay (R)
Charles R. Holbrook III (R)

COUNTIES AND SPECIAL DISTRICTS

Gross C. Lindsay, Chairman (D)

Adrian Arnold (D)
Al Bennett (D)
Allene A. Craddock (D)
Clay Crupper (D)
Mark Fitzgerald (D)
Lewis Foster (D)
Thomas B. Givhan (D)
Robert F. Hughes (D)
Jim LeMaster (D)
David Gray Mason (D)
Archie N. Romines, Sr. (D)
G. W. "Bill" Vincent (D)

Willard C. Allen, Minority Chairman (R)

Jon W. Ackerson (R)
Louis R. Guenthner, Jr. (R)
Charles "Chuck" Hardwick (R)

EDUCATION

Don W. Stephens, Chairman (D)

Albert Sidney Adams (D)
Glenna A. Bevins (D)
Ray O. Brown (D)
Allene A. Craddock (D)
N. Clayton Little (D)
Terry L. Mann (D)
Carl A. Nett (D)
Jody Richards (D)

Hoover Dawahare (D)

Mitchel B. Denham (D)

Forest Aggie Sale (D)

Jimmy White (D)

Larry J. Hopkins, Minority Chairman (R)

Jon W. Ackerson (R)

Willard C. Allen (R)

Ernie Siler (R)

ELECTIONS AND CONSTITUTIONAL AMENDMENTS

James R. "Jim" Dunn, Chairman (D)

J. W. Boatwright (D)

William T. Brinkley (D)

Ward Burnette (D)

Clay Crupper (D)

Herbert Deskins, Jr. (D)

Robert F. Hughes (D)

John Hurst (D)

John J. Isler (D)

Mae Street Kidd (D)

N. Clayton Little (D)

Paul W. Richardson (D)

G. W. "Bill" Vincent (D)

Dexter S. Wright, Minority Chairman (R)

Jackie "Ray" Cooper (R)

Charles "Chuck" Hardwick (R)

Larry J. Hopkins (R)

HEALTH AND WELFARE

Jerry Kleier, Chairman (D)

Albert Sidney Adams (D)

Gerta Bendl (D)

John Carpenter (D)

Mitchel B. Denham (D)

J. R. Gray (D)

Bob Jones (D)

Ray Maynard (D)

Charlotte S. McGill (D)

Nick L. Pearl (D)

Dottie Priddy (D)

Forest Aggie Sale (D)

Michael W. Wooden (D)

Raymond Overstreet, Minority Chairman (R)

W. D. "Doc" Blair (R)

Jackie "Ray" Cooper (R)

Larry J. Hopkins (R)

HIGHWAYS AND TRAFFIC SAFETY

C. M. "Hank" Hancock, Chairman (D)

Hoover Dawahare (D)

Mitchel B. Denham (D)

Joe Head (D)

Forest Aggie Sale (D)

Sam B. Thomas (D)

Mary Ann Tobin (D)

David Gray Mason (D)
H. Ramsey Morris, Jr. Jr. (D)
Archie N. Romines, Sr. (D)
John Raymond Turner (D)
G. W. "Bill" Vincent (D)
James Bernard Yates (D)

Lavey Floyd, Minority Chairman (R)

Charles "Chuck" Hardwick (R)
Herman W. Rattliff (R)
Richard A. Turner (R)

JUDICIARY-COURTS

Charles S. Wible, Chairman (D)

Steven L. Beshear (D)
William T. Brinkley (D)
Ray O. Brown (D)
Allene A. Craddock (D)
Herbert Deskins, Jr. (D)
Mark Fitzgerald (D)
Bob Jones (D)
Gross C. Lindsay (D)
Mark D. O'Brien (D)
Nick L. Pearl (D)
George R. Siemens, Jr. (D)
Mary Ann Tobin (D)

Louis DeFalaise, Minority Chairman (R)

Jon W. Ackerson (R)
Clay Gay (R)
W. Harold DeMarcus (R)

JUDICIARY-STATUTES

Thomas B. Givhan, Chairman (D)

Buddy H. Adams (D)
Gerta Bendl (D)
Bob Benson (D)
Steven L. Beshear (D)
J. W. Boatwright (D)
Lewis Foster (D)
Phillip E. King (D)
David Gray Mason (D)
Charlotte S. McGill (D)
Charlotte S. McGill (D)
Bobby H. Richardson (D)
George R. Siemens, Jr. (D)

Charles R. Holbrook III, Minority Chairman (R)

Louis DeFalaise (R)
Louis R. Guenthner, Jr. (R)
Raymond Overstreet (R)

LABOR AND INDUSTRY

Norbert Blume, Chairman (D)

James "Jitter" Allen (D)
Al Bennett (D)
Ray O. Brown (D)
Ronald R. Cyrus (D)
Hoover Dawahare (D)
Elmer C. Dietz (D)
J. R. Gray (D)
John Hurst (D)
Kenneth C. Imes (D)
Phillip E. King (D)
Dottie Priddy (D)
Archie N. Romines, Sr. (D)

Louis R. Guenthner, Jr., Minority Chairman (R)

Jackie "Ray" Cooper (R)
Edward L. Holloway (R)
Charles P. Munch (R)

PUBLIC UTILITIES AND TRANSPORTATION

Bill McBee, Chairman (D)

Glenna A. Bevins (D)
Donald J. Blandford (D)
John Carpenter (D)
Elmer C. Dietz (D)
James "Jim" Dunn (D)
Glenn Freeman (D)
Jim LeMaster (D)
Fred H. Morgan (D)
George E. Stewart (D)
John Raymond Turner (D)
Jimmy White (D)
James Bernard Yates (D)

Charles P. Muncy, Minority Chairman (R)

Raymond Overstreet (R)
Albert Robinson (R)
Dexter S. Wright (R)

STATE GOVERNMENT

Fred H. Morgan, Chairman (D)

J. W. Boatwright (D)
James E. Bruce (D)
Lloyd Clapp (D)
Joe Clarke (D)
William "Bill" Donnermeyer (D)
Bob Jones (D)
Joseph McBride (D)
Jody Richards (D)
Bobby H. Richardson (D)
Dwight Wells (D)
Kenneth C. Imes (D)

W. Harold DeMarcus, Minority Chairman (R)

E. Bruce Blythe (R)
Albert Robinson (R)
Arthur L. Schmidt (R)

Announcements

Representative Morgan, a member of the Committee to wait upon the Governor, announced that the Governor wished to speak to a Joint Session of the General Assembly at 7:00 p.m., Wednesday, January 7, 1976.

Representative Tobin announced a freshman caucus at 4:00 p.m., Wednesday, January 7, 1976, Room 307.

Representative Bobby Richardson moved that when the House adjourns it do so until 6:00 p.m., Wednesday, January 7, 1976. Agreed.

Introduction of Bills and Resolutions

HB 1, introduced for the Interim Committee on Agriculture and Natural Resources by Representatives Blandford and Hurst: AN ACT relating to the sale of livestock.

HB 2, introduced for the Interim Committee on Agriculture and Natural Resources by Representatives Foster and Arnold: AN ACT relating to mineral interests.

HB 3, introduced for the Interim Committee on Appropriations and Revenue by Representatives O'Brien and Nett: AN ACT relating to revenue and taxation.

HB 4, introduced for the Interim Committee on Appropriations and Revenue by Representatives Clarke, Nett, Beshear, and Robinson: AN ACT relating to the funding of public schools.

HB 5, introduced for the Interim Committee on Appropriations and Revenue by Representatives Clarke, Beshear, Nett, DeMarcus, and Wells: AN ACT relating to legislative approval of state bond issuances and sales.

HB 6, introduced for the Interim Committee on Appropriations and Revenue by Representatives Nett, Robinson, O'Brien, and Clarke: AN ACT relating to state personnel.

HB 7, introduced for the Interim Committee on Appropriations and Revenue by Representatives Clarke, O'Brien, and Nett: AN ACT relating to revenue and taxation.

HB 8, introduced for the Interim Committee on Appropriations and Revenue by Representatives Clarke, Beshear, Wells, DeMarcus, Nett, and O'Brien: AN ACT relating to bills and prefiled bills.

HB 9, introduced for the Interim Committee on Appropriations and Revenue by Representatives Nett, Robinson, and Wible: AN ACT relating to state personnel.

HB 10, introduced for the Interim Committee on Appropriations and Revenue by Representatives Nett and Robinson: AN ACT relating to state personnel.

HB 11, introduced for the Interim Committee on Appropriations and Revenue by Representatives O'Brien and Holloway: AN ACT relating to state purchasing.

HB 12, introduced for the Interim Committee on Appropriations and Revenue by Representatives O'Brien and Holloway: AN ACT relating to state purchasing.

HB 13, introduced for the Interim Committee on Appropriations and Revenue by Representatives Nett, Robinson, Wible, and O'Brien: AN ACT relating to state personnel.

HB 14, introduced for the Interim Committee on Appropriations and Revenue by Representatives Clarke, O'Brien, Wible, Nett, and DeMarcus: AN ACT relating to income taxation.

HB 15, introduced for the Interim Committee on Appropriations and Revenue by Representative Wells: AN ACT relating to service charges by cities of the first and second classes and urban county governments.

HB 16, introduced for the Interim Committee on Business Organizations and Professions by Representatives Mann and Donnermeyer: AN ACT relating to occupational and professional licensing and public employment for ex-criminal offenders.

HB 17, introduced for the Interim Committee on Business Organizations and Professions by Representative Mann: AN ACT relating to the excise tax on malt beverages.

HB 18, introduced for the Interim Committee on Business Organizations and Professions by Representatives Donnermeyer and Mann: AN ACT relating to the Kentucky Higher Education Assistance Authority.

HB 19, introduced for the Interim Committee on Business Organizations and Professions by Representative McBee: AN ACT relating to the licensing of real estate brokers and salesmen.

HB 20, introduced for the Interim Committee on Business Organizations and Professions by Representatives Donnermeyer and Mann: AN ACT relating to licensing of real estate agents.

HB 21, introduced for the Interim Committee on Business Organizations and Professions by Representatives Thomas and King: AN ACT relating to the licensing of barbers.

HB 22, introduced for the Interim Committee on Business Organizations and Professions by Representatives Donnermeyer and Mann: AN ACT relating to shorthand reporters.

HB 23, introduced for the Interim Committee on Business Organizations and Professions by Representatives Mann and King: AN ACT relating to state occupational and professional licensing.

HB 24, introduced for the Interim Committee on Business Organizations and Professions by Representatives Donnermeyer and McBee: AN ACT relating to the management and use of investments held by eleemosynary institutions and funds.

HB 25, introduced for the Interim Committee on Business Organizations and Professions by Representatives Thomas and Mann: AN ACT relating to unclaimed pari-mutuel tickets of thoroughbred race meetings.

HB 26, introduced for the Interim Committee on Business Organizations and Professions by Representative Mann: AN ACT relating to business organizations.

HB 27, introduced for the Interim Committee on Business Organizations and Professions by Representatives Mann, King, and Donnermeyer: AN ACT relating to the licensing of barbers.

HB 28, introduced for the Interim Committee on Business Organizations and Professions by Representatives Thomas and Morgan: AN ACT relating to cooperative corporations.

HB 29, introduced for the Interim Committee on Business Organizations and Professions by Representative Donnermeyer: AN ACT relating to certified public accountants and public accountants.

HB 30, introduced for the Interim Committee on Cities by Representatives Hancock and Siemens: AN ACT relating to the creation of a department of housing, buildings and construction.

HB 31, introduced for the Interim Committee on Cities by Representatives Benson and Stephens: AN ACT relating to public transportation.

HB 32, introduced for the Interim Committee on Cities by Representatives Kenton and Isler: AN ACT relating to the disposal of household waste.

HB 33, introduced for the Interim Committee on Cities by Representatives Stephens and Hancock: AN ACT relating to animals.

HB 34, introduced for the Interim Committee on Cities by Representatives Siemens and Hancock: AN ACT relating to city housing programs.

HB 35, introduced for the Interim Committee on Cities by Representatives Siemens and Hancock: AN ACT providing for the creation and operation of a housing rehabilitation revolving loan fund.

HB 36, introduced for the Interim Committee on Cities by Representatives Kleier and Gay: AN ACT relating to the medical assistance program.

HB 37, introduced for the Interim Committee on Cities by Representatives Kleier and Gay: AN ACT relating to health care for government employes.

HB 38, introduced for the Interim Committee on Cities by Representatives Kenton and Benson: AN ACT relating to a permit for withdrawal of water from public waters.

HB 39, introduced for the Interim Committee on Cities by Representatives Hancock and Gay: AN ACT relating to the assessment of property for tax purposes.

HB 40, introduced for the Interim Committee on Cities by Representatives Kenton and Maynard: AN ACT relating to Home Rule for cities.

HB 41, introduced for the Interim Committee on Cities by Representatives Kenton and Siemens: AN ACT relating to annual audits and financial statements.

HB 42, introduced for the Interim Committee on Cities by Representatives Kenton and Benson: AN ACT relating to the urban affairs council.

HB 43, introduced for the Interim Committee on Cities by Representatives Kenton and Gay: AN ACT relating to annexation of unincorporated territory in which industrial plants are located.

HB 44, introduced for the Interim Committee on Cities by Representatives Kenton and Siemens: AN ACT relating to legal notice of city ordinances.

HB 45, introduced for the Interim Committee on Cities by Representatives Kenton and Benson: AN ACT relating to the adoption of codes.

HB 46, introduced for the Interim Committee on Cities by Representatives Stephens and Kenton: AN ACT relating to lump sum expense accounts.

HB 47, introduced for the Interim Committee on Cities by Representatives Kenton, Hancock, Benson, Stephens, and Siemens: AN ACT relating to taxes.

HB 48, introduced for the Interim Committee on Cities by Representatives Kleier and Kenton: AN ACT relating to tax increments.

HB 49, introduced for the Interim Committee on Cities by Representatives Kleier and Gay: AN ACT relating to ambulance service.

HB 50, introduced for the Interim Committee on Cities by Representatives Kenton and Benson: AN ACT relating to bond issues.

HB 51, introduced for the Interim Committee on Cities by Representatives Kenton and Gay: AN ACT relating to cities.

HB 52, introduced for the Interim Committee on Cities by Representatives Kleier and Gay: AN ACT relating to the dissolution of cities.

HB 53, introduced for the Interim Committee on Cities by Representatives Kenton and Isler: AN ACT relating to conflict of interest of public officials.

HB 54, introduced for the Interim Committee on Cities by Representatives Kenton and Isler: AN ACT relating to gasoline tax revenue.

HB 55, introduced for the Interim Committee on Cities by Representatives Kenton and Benson: AN ACT relating to the transfer of cities to another class.

HB 56, introduced for the Interim Committee on Cities by Representatives Kenton and Gay: AN ACT relating to annexation by municipalities.

HB 57, introduced for the Interim Committee on Cities by Representatives Kenton and Benson: AN ACT relating to municipal statute revision.

HB 58, introduced for the Interim Committee on Cities by Representatives Kenton and Hancock: AN ACT relating to state government reorganization creating a department of local government affairs.

HB 59, introduced for the Interim Committee on Cities by Representatives Kenton and Benson: AN ACT relating to incorporation and general powers of cities.

HB 60, introduced for the Interim Committee on Cities by Representatives Kenton and Benson: AN ACT relating to city assessors.

HB 61, introduced for the Interim Committee on Cities by Representatives Stephens and Benson: AN ACT relating to taxes.

HB 62, introduced for the Interim Committee on Cities by Representatives Hancock and Benson: AN ACT relating to the control of insect, animal and other related pests.

HB 63, introduced for the Interim Committee on Cities by Representatives Kenton and Siemens: AN ACT relating to local development authorities.

HB 64, introduced for the Interim Committee on Cities by Representatives Kenton and Benson: AN ACT relating to disasters and emergencies.

HB 65, introduced for the Interim Committee on Counties and Special Districts by Representatives Guenthner, Bennett, Mason, O'Brien, and Romines: AN ACT relating to planning and zoning.

HB 66, introduced for the Interim Committee on Counties and Special Districts by Representatives Mason, O'Brien, Givhan, and Romines: AN ACT relating to annexation.

HB 67, introduced for the Interim Committee on Counties and Special Districts by Representatives Givhan and Romines: AN ACT relating to audits.

HB 68, introduced for the Interim Committee on Education by Representatives Denham, Little, and Nett: AN ACT relating to regional day school education for the deaf and hearing impaired.

HB 69, introduced for the Interim Committee on Education by Representatives Nett and Mann: AN ACT relating to a Council on Education in Kentucky.

HB 70, introduced for the Interim Committee on Education by Representatives Stephens, Brown, and Sale: AN ACT relating to career education.

HB 71, introduced for the Interim Committee on Education by Representatives Sale and Mann: AN ACT relating to special education.

HB 72, introduced for the Interim Committee on Education by Representative Denham: AN ACT relating to immunization against rubella.

HB 73, introduced for the Interim Committee on Education by Representative Denham: AN ACT relating to the levy of school taxes.

HB 74, introduced for the Interim Committee on Education by Representatives Little and W. Allen: AN ACT relating to education.

HB 75, introduced for the Interim Committee on Education by Representatives Hopkins and Little: AN ACT relating to the Teacher's Retirement System.

HB 76, introduced for the Interim Committee on Education by Representatives Little and S. Adams: AN ACT relating to higher education academic programs.

HB 77, introduced for the Interim Committee on Education by Representatives S. Adams and W. Allen: AN ACT relating to financial statements.

HB 78, introduced for the Interim Committee on Education by Representatives Mann, Morgan, Brown, Nett, and W. Allen: AN ACT relating to educational accountability.

HB 79, introduced for the Interim Committee on Elections and Constitutional Amendments by Representatives Kidd and Clapp: AN ACT relating to elections.

HB 80, introduced for the Interim Committee on Health and Welfare by Representatives Denham and Maynard: AN ACT relating to the testing and immunization of children entering any public or private, elementary or secondary school.

HB 81, introduced for the Interim Committee on Health and Welfare by Representative Kleier: AN ACT relating to public assistance.

HB 82, introduced for the Interim Committee on Health and Welfare by Representatives Hopkins and Priddy: AN ACT relating to persons who are incompetent.

HB 83, introduced for the Interim Committee on Highways and Traffic Safety by Representatives Mason and Hancock: AN ACT relating to traffic offenses.

HB 84, introduced for the Interim Committee on Highways and Traffic Safety by Representatives Hancock, Yates, Mason, and Vincent: AN ACT relating to the use of streets and highways.

HB 85, introduced for the Interim Committee on Highways and Traffic Safety by Representatives Yates, Mason, and Hancock: AN ACT relating to roads, streets, and highways.

HB 86, introduced for the Interim Committee on Highways and Traffic Safety by Representatives Lindsay and Vincent: AN ACT relating to highway construction and financing.

HB 87, introduced for the Interim Committee on Highways and Traffic Safety by Representatives Vincent, Yates, Mason, and Hancock: AN ACT relating to vehicles.

HB 88, introduced for the Interim Committee on Judiciary by Representatives McGill and Holbrook: AN ACT relating to marriage licenses.

HB 89, introduced for the Interim Committee on Judiciary by Representative Benson: AN ACT relating to child support.

HB 90, introduced for the Interim Committee on Judiciary by Representative Benson: AN ACT providing for the creation of the position of Solicitor General for the General Assembly of the Commonwealth of Kentucky.

HB 91, introduced for the Interim Committee on Judiciary by Representative Benson: AN ACT relating to gifts to minors.

HB 92, introduced for the Interim Committee on Judiciary by Representatives Overstreet and McGill: AN ACT relating to quarterly courts.

HB 93, introduced for the Interim Committee on Judiciary by Representative Beshear: AN ACT relating to eminent domain.

HB 94, introduced for the Interim Committee on Judiciary by Representatives Benson and Beshear: AN ACT relating to attorney's fees.

HB 95, introduced for the Interim Committee on Judiciary by Representatives King and Benson: AN ACT relating to the legal defense of indigent persons.

HB 96, introduced for the Interim Committee on Judiciary by Representative King: AN ACT relating to crime victims.

HB 97, introduced for the Interim Committee on Judiciary by Representative Benson: AN ACT relating to appeals from inferior courts.

HB 98, introduced for the Interim Committee on Judiciary by Representatives McGill and Benson: AN ACT relating to decedents' estates.

HB 99, introduced for the Interim Committee on Judiciary by Representative Benson: AN ACT relating to termination of parental rights.

HB 100, introduced for the Interim Committee on Labor and Industry by Representative McGill: AN ACT relating to workmen's compensation.

HB 101, introduced for the Interim Committee on Labor and Industry by Representative Guenthner: AN ACT relating to workmen's compensation.

HB 102, introduced for the Interim Committee on Labor and Industry by Representative Bennett: AN ACT relating to workmen's compensation.

HB 103, introduced for the Interim Committee on Labor and Industry by Representative Brown: AN ACT relating to unemployment compensation.

HB 104, introduced for the Interim Committee on Labor and Industry by Representative McGill: AN ACT relating to unemployment compensation.

HB 105, introduced for the Interim Committee on Labor and Industry by Representative Brown: AN ACT relating to unemployment compensation.

HB 106, introduced for the Interim Committee on Labor and Industry by Representative Holloway: AN ACT relating to workmen's compensation.

HB 107, introduced for the Interim Committee on Labor and Industry by Representative McGill: AN ACT relating to workmen's compensation.

HB 108, introduced for the Interim Committee on Labor and Industry by Representative Holloway: AN ACT relating to workmen's compensation.

HB 109, introduced for the Interim Committee on Labor and Industry by Representative Bennett: AN ACT relating to workmen's compensation.

HB 110, introduced for the Interim Committee on Labor and Industry by Representative Bennett: AN ACT relating to workmen's compensation.

HB 111, introduced for the Interim Committee on Labor and Industry by Representative Bennett: AN ACT relating to unemployment compensation.

HB 112, introduced for the Interim Committee on Labor and Industry by Representative Bennett: AN ACT relating to employment.

HB 113, introduced for the Interim Committee on Labor and Industry by Representative Romines: AN ACT relating to consumer credit transactions.

HB 114, introduced for the Interim Committee on Labor and Industry by Representative Romines: AN ACT relating to consumer protection.

HB 115, introduced for the Interim Committee on Labor and Industry by Representative Romines: AN ACT relating to the sale and merchantability of motor vehicles.

HB 116, introduced for the Interim Committee on Labor and Industry by Representative Priddy: AN ACT relating to deductions from wages.

HB 117, introduced for the Interim Committee on Labor and Industry by Representative Yates: AN ACT relating to gratuity.

HB 118, introduced for the Interim Committee on Labor and Industry by Representative Priddy: AN ACT relating to wages and hours.

HB 119, introduced for the Interim Committee on Labor and Industry by Representative Priddy: AN ACT relating to payment of wages.

HB 120, introduced for the Interim Committee on Labor and Industry by Representative Yates: AN ACT relating to mine safety standards and making an appropriation therefor.

HB 121, introduced by the Interim Committee on Labor and Industry by Representative Bennett: AN ACT relating to deductions from wages of employes.

HB 122, introduced for the Interim Committee on Labor and Industry by Representative Yates: AN ACT relating to wages and hours.

HB 123, introduced for the Interim Committee on Labor and Industry by Representative Priddy: AN ACT relating to the payment of wages.

HB 124, introduced for the Interim Committee on Labor and Industry by Representative Priddy: AN ACT relating to the inspection of elevators.

HB 125, introduced for the Interim Committee on Labor and Industry by Representative Yates: AN ACT relating to child labor.

HB 126, introduced for the Interim Committee on Labor and Industry by Representative Siemens: AN ACT relating to labor organizations.

HB 127, introduced for the Interim Committee on Labor and Industry by Representative Yates: AN ACT relating to the department of labor.

HB 128, introduced for the Interim Committee on Labor and Industry by Representative Priddy: AN ACT relating to wage discrimination.

HB 129, introduced for the Interim Committee on Labor and Industry by Representative Bennett: AN ACT relating to wages and hours.

HB 130, introduced for the Interim Committee on Labor and Industry by Representative Holloway: AN ACT relating to workmen's compensation.

HB 131, introduced for the Interim Committee on Labor and Industry by Representative Holloway: AN ACT relating to workmen's compensation.

HB 132, introduced for the Interim Committee on Labor and Industry by Representative Siemens: AN ACT relating to unemployment compensation.

HB 133, introduced for the Interim Committee on Labor and Industry by Representative Imes: AN ACT relating to unemployment compensation.

HB 134, introduced for the Interim Committee on Labor and Industry by Representative Yates: AN ACT relating to apprenticeship or training discrimination.

HB 135, introduced for the Interim Committee on Public Utilities and Transportation by Representatives Dunn and McBee: AN ACT relating to motor vehicles.

HB 136, introduced for the Interim Committee on Public Utilities and Transportation by Representatives Dunn and McBee: AN ACT relating to motor vehicles.

HB 137, introduced for the Interim Committee on State Government by Representatives B. Richardson, Wible, DeMarcus, Clarke, and Schmidt: AN ACT relating to administrative adjudicatory proceedings and judicial review thereof.

HB 138, introduced for the Interim Committee on State Government by Representatives Clarke, Wible, and Schmidt: AN ACT relating to public records.

HB 139, introduced for the Interim Committee on State Government by Representatives Wible and Clarke: AN ACT relating to establishing the Kentucky Enviroeconomic Council.

HB 140, introduced for the Interim Committee on State Government by Representatives Wible and Clarke: AN ACT relating to technological progress.

HB 141, introduced for the Interim Committee on State Government by Representatives Schmidt and Wible: AN ACT relating to nominations to the National Register of Historic Places and making an appropriation for notices concerning such nominations.

HB 142, introduced for the Legislative Research Commission by Representatives Blume and Schmidt: AN ACT relating to the Kentucky Employes Retirement System.

HB 143, introduced for the Interim Committee on Judiciary by Representatives Yates, Benson, and Givhan: AN ACT relating to criminal prosecutions.

HB 144, introduced for the Interim Committee on Judiciary by Representative Maynard: AN ACT relating to parole.

HB 145, introduced for the Interim Committee on Judiciary by Representative Kleier: AN ACT relating to individual rights.

HB 146, by Representative Kidd: AN ACT relating to legislative compensation and expense allowances.

HB 147, by Representatives Wible, Donnermeyer, and Schmidt: AN ACT relating to Acts and Journals of the General Assembly.

HB 148, by Representatives Morris and Bruce: AN ACT relating to the motor vehicle usage tax.

HB 149, by Representatives Wible and DeMarcus: AN ACT relating to lobbying.

HB 150, by Representatives Bruce, Brinkley, and Morris: AN ACT relating to judicial districts.

HB 151, by Representative DeMarcus: AN ACT relating to elections.

HB 152, by Representative DeMarcus: AN ACT relating to the motor vehicle usage tax.

HB 153, by Representative Maynard: AN ACT relating to bail.

HB 154, by Representative Maynard: AN ACT relating to primary elections in cities of the first class.

HB 155, by Representative Romines: AN ACT relating to credit information.

HB 156, by Representative Romines: AN ACT relating to licensing of motor vehicles.

HB 157, by Representative Romines: AN ACT relating to county roads.

HB 158, by Representative Romines: AN ACT relating to appropriations and the disbursement of appropriations.

HB 159, by Representative Romines: AN ACT relating to motor vehicles.

HB 160, by Representative W. Allen: AN ACT relating to farming.

HB 161, by Representative Holbrook: AN ACT proposing an amendment to Section 170 of the Constitution of Kentucky relating to property exempt from taxation.

HB 162, by Representative Imes: AN ACT relating to funeral directing.

HB 163, by Representative Kidd: AN ACT relating to instruction of exceptional children.

HB 164, by Representative Kidd: AN ACT relating to special education.

HB 165, by Representative Wible: AN ACT relating to executions.

HB 166, by Representative Brinkley: AN ACT relating to parole of prisoners.

HB 167, by Representative Mason: AN ACT relating to inheritance tax.

HB 168, by Representative Romines: AN ACT relating to elementary and secondary education.

HB 169, by Representative Blume: AN ACT relating to legislative compensation and allowances.

HB 170, by Representative Wible: AN ACT relating to license fees or taxes on income of military personnel.

HB 171, by Representative Wooden: AN ACT relating to pupil conduct.

HB 172, by Representative B. Adams: AN ACT relating to taxation.

HB 173, by Representative B. Adams: AN ACT relating to taxation.

HB 174, by Representative Holbrook: AN ACT relating to city license tax on insurance companies.

HB 175, by Representative Arnold: AN ACT relating to fishing and hunting licenses.

HB 176, by Representative DeMarcus: AN ACT relating to recall of public officials.

HB 177, by Representative DeMarcus: AN ACT relating to the removal of judges.

HB 178, by Representatives Wooden and Schmidt: AN ACT relating to smoking on school premises.

HB 179, by Representative Schmidt: AN ACT relating to entry on land without consent.

HB 180, by Representatives Schmidt, King, Donnermeyer, Dietz, DeFalaise, Mann, McBee, Crupper, Denham, and Isler: AN ACT relating to higher education.

HB 181, by Representative Blythe: AN ACT relating to members of United States military reserve components based in Kentucky.

HB 182, by Representative Blythe: AN ACT providing an income tax credit for residents serving in United States military reserve components based in Kentucky.

HB 183, by Representative Hopkins: AN ACT relating to the allocation of excess funds.

HB 184, by Representative Kidd: AN ACT relating to rent subsidies for aged and disabled persons.

HB 185, by Representative B. Richardson: AN ACT relating to the judicial system.

HB 186, by Representative B. Richardson: AN ACT relating to Judicial Nominating Commissions and the Judicial Retirement and Removal Commission.

HB 187, by Representatives Guenthner, Holloway, O'Brien, Hughes, DeMarcus, and Ackerson: AN ACT relating to unfair employment practices.

HJR 1, introduced for the Interim Committee on Appropriations and Revenue by Representatives Nett, Robinson, Wible, and O'Brien: A JOINT RESOLUTION directing the Department of Personnel to develop, monitor implementation of, and enforce adherence to standards and procedures for appraising the work performance of state employes.

HCR 2, introduced for the Interim Committee on Health and Welfare by Representatives Denham and Priddy: A CONCURRENT RESOLUTION requesting and petitioning the President and United States Congress to recognize the right of the states to govern their inhabitants.

HJR 3, by Representatives Wible and DeMarcus: A JOINT RESOLUTION directing the Legislative Research Commission to study conflict of interest problems and laws relating to public officers and employes.

HJR 4, by Representative DeMarcus: A JOINT RESOLUTION directing the Secretary of State to place on the ballot at the November, 1977 general election the question of collective bargaining for public employes.

HCR 5, by Representative Yates: A CONCURRENT RESOLUTION petitioning the Congress of the United States to adopt a resolution submitting an amendment to the Constitution of the United States.

HCR 6, by Representatives Yates, Hughes, Romines, Dunn, Priddy, Bennett, and O'Brien: A CONCURRENT RESOLUTION petitioning the Congress of the United States to adopt a resolution submitting an amendment to the Constitution of the United States.

HJR 7, by Representatives Imes, Burnett, and Boatwright: A JOINT RESOLUTION to withdraw the ratification by the Kentucky General Assembly of the proposed 27th amendment to the Constitution of the United States, relative to equal rights for men and women.

HJR 11, by Representative DeFalaise: A JOINT RESOLUTION authorizing and directing the Legislative Research Commission to provide information to the public, and solicit citizens' opinions prior to, the proposed Constitutional Convention of 1979.

Adjournment

Representative Bobby Richardson moved that when the House adjourns it do so by voice vote. Agreed.

Representative Bobby Richardson moved that the House adjourn. Agreed.

The House adjourned until 6:00 p.m., Wednesday, January 7, 1976.

WEDNESDAY, JANUARY 7, 1976

SECOND LEGISLATIVE DAY

The House was called to order by Speaker Kenton.

Prayer by Reverend John C. Chenault, First Christian Church, Frankfort.

The roll was called. All members present.

Representative Isler moved that absent members be granted leave of absence. Agreed.

Representative Hughes moved that the reading of the Journal of January 6, 1976, be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HB 188, by Representative B. Adams: AN ACT relating to marriage.

HB 189, by Representative Head: AN ACT changing the classification of the City of Sebree, in Webster County.

HB 190, by Representative Head: AN ACT changing the classification of the City of Clay, in Webster County.

HB 191, by Representatives Dawahare, Romines, Holloway, Bennett, Blume, Denham, Dunn, Guenthner, Holbrook, Hopkins, Hughes, Kleier, Maynard, McGill, Nett, O'Brien, Overstreet, and Priddy: AN ACT relating to hemophilia.

HB 192, by Representative White: AN ACT relating to unemployment compensation.

HB 193, by Representatives Hughes, Priddy, Arnold, Bennett, Brinkley, Brown, Bruce, Burnette, Cyrus, Dawahare, Dunn, Gay, Hardwick, Holbrook, Isler, Morris, Romines, and Yates: AN ACT relating to school attendance districts.

HB 194, by Representative Hughes: AN ACT relating to pharmacies.

HB 195, by Representatives DeFalaise, Guenthner, Cooper, Ackerson, R. Turner, Blair, and Hardwick: AN ACT relating to elections.

HB 196, by Representatives DeFalaise, Cooper, Schmidt, Muncy, Hardwick, and Ackerson: AN ACT proposing an amendment to the Constitution of Kentucky relating to elections.

HB 197, by Representatives DeFalaise, R. Turner, Blair, Cooper, and DeMarcus: AN ACT relating to public utilities.

HB 198, by Representatives DeFalaise, Ackerson, R. Turner, Hardwick, Cooper, and DeMarcus: AN ACT relating to taxation.

HB 199, by Representatives DeFalaise, Cooper, Schmidt, Muncy, Hardwick, and DeMarcus: AN ACT relating to disposition of criminal offenders.

HB 200, by Representative Overstreet: AN ACT relating to strip mining.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Natural Resources: **HB 1, HB 2, HB 160, HB 175.**

Appropriations and Revenue: **HB 3, HB 4, HB 5, HB 6, HB 7, HB 8, HB 9, HB 10, HB 11, HB 12, HB 13, HB 14, HB 15, HB 148, HB 152, HB 158, HB 168, HB 170, HB 172, HB 173, HB 181, HB 182, HB 183, HJR 1.**

Business Organizations and Professions: **HB 16, HB 17, HB 18, HB 19, HB 20, HB 21, HB 22, HB 23, HB 24, HB 25, HB 26, HB 27, HB 28, HB 29.**

Cities: **HB 30, HB 31, HB 32, HB 33, HB 34, HB 35, HB 36, HB 37, HB 38, HB 39, HB 40, HB 41, HB 42, HB 43, HB 44, HB 45, HB 46, HB 47, HB 48, HB 49, HB 50, HB 51, HB 52, HB 53, HB 54, HB 55, HB 56, HB 57, HB 58, HB 59, HB 60, HB 61, HB 62, HB 63, HB 64, HB 174.**

Counties and Special Districts: **HB 65, HB 66, HB 67.**

Education: **HB 68, HB 69, HB 70, HB 71, HB 72, HB 73, HB 74, HB 75, HB 76, HB 77, HB 78, HB 163, HB 164, HB 171, HB 180.**

Elections and Constitutional Amendments: **HB 79, HB 150, HB 151, HB 154, HB 161, HB 176, HJR 4, HCR 5, HCR 6, HJR 7.**

Health and Welfare: **HB 80, HB 81, HB 82, HB 162, HB 166, HB 178, HB 184, HCR 2.**

Highways and Traffic Safety: **HB 83, HB 84, HB 85, HB 86, HB 87, HB 157.**

Judiciary-Courts: **HB 92, HB 94, HB 97, HB 153, HB 177.**

Judiciary-Statutes: **HB 88, HB 89, HB 90, HB 91, HB 93, HB 95, HB 96, HB 98, HB 99, HB 143, HB 144, HB 145, HB 155, HB 159, HB 165, HB 167, HB 179.**

Labor and Industry: **HB 100, HB 101, HB 102, HB 103, HB 104, HB 105, HB 106, HB 107, HB 108, HB 109, HB 110, HB 111, HB 112, HB 113, HB 114, HB 115, HB 116, HB 117, HB 118, HB 119, HB 120, HB 121, HB 122, HB 123, HB 124, HB 125, HB 126, HB 127, HB 128, HB 129, HB 130, HB 131, HB 132, HB 133, HB 134.**

Public Utilities and Transportation: **HB 135, HB 136, HB 156.**

State Government: **HB 137, HB 138, HB 139, HB 140, HB 141, HB 142, HB 146, HB 147, HB 149, HB 169, HJR 3.**

Motions, Petitions and Communications

Representative Bobby Richardson moved that the House appoint a Committee to wait upon the Governor. Agreed.

The Speaker appointed the following committee to wait upon the Governor: Representatives McGill, Morgan, Isler, and DeMarcus.

Representative Clarke announced a meeting of the Committee on Appropriations and Revenue in Room 307 at 11:00 a.m., January 8, 1976.

The Committee appointed to wait upon the Governor reported that the Governor was ready to address a Joint Session of the General Assembly.

The Honorable Thelma L. Stovall, Lieutenant Governor and President of the Senate, and the members of the Senate entered upon the floor of the House.

The Speaker recognized The Honorable Thelma L. Stovall, Lieutenant Governor and President of the Senate, and the members of the Senate.

Representative Bobby Richardson moved that the House resolve itself into a Committee of the Whole to go into Joint Session with the Senate. Agreed.

Joint Session

The Speaker vacated the Chair, whereupon The Honorable Thelma L. Stovall, Lieutenant Governor and President of the Senate, assumed the Chair and called the Joint Session to order.

Representative Bobby Richardson moved that the House and Senate resolve into Joint Session for the purpose of receiving the State of the Commonwealth Address of The Honorable Julian M. Carroll, Governor of Kentucky. Agreed.

Representative Bobby Richardson moved that the Joint Session of the House and Senate dispense with the call of the roll. Agreed.

Prayer by the Reverend John C. Chenault, First Christian Church, Frankfort.

Representative Hancock introduced The Honorable James C. Burch, Mayor of the city of Frankfort. Mayor Burch welcomed the members of the General Assembly and introduced the members of the Frankfort City Commission.

The Committee of the House appointed to join with a like committee of the Senate to wait upon the Governor and escort him to the House to address the Joint Session appeared with the Governor.

Lieutenant Governor Thelma L. Stovall introduced The Honorable Julian M. Carroll, Governor of the Commonwealth of Kentucky.

Governor Carroll addressed the Joint Session of the General Assembly.

Common Sense For The Common Good

Lieutenant Governor Stovall, Speaker Kenton, Members of the General Assembly, Members of the Judiciary, Members of the Executive Cabinet, Ladies and Gentlemen.

We are gathered to discuss the condition of our Commonwealth and its economic prospects. But even more important is the opportunity this message provides to give you insight into my philosophy of government management, and to tell you how that philosophy will be reflected in programs I will submit for your consideration.

It is also imperative that we immediately address and establish long range goals we seek to meet, not only during the time you and I are here, but for the future as well.

It is not a simple task to measure either the change taking place in our nation's economy, as it moves in and out of recession, or the change in Kentucky's economy as it reacts to national trends.

It is even more difficult to translate those economic changes into a rate of revenue generated from our diversified tax base. However, despite those uncertainties, there are positive signs which indicate that our economy is viable.

Economic recovery is underway, although the twin problems of inflation and unemployment continue to linger. While energy problems will probably remain with us for the biennium, the energy crisis is expected to further stimulate the demand for coal, including Kentucky production. However, extremely high coal prices are not expected.

What is certain about our economy tonight is that this administration will maintain a prudent fiscal posture in regards to the revenue receipts which finance our governmental operations. This state will not have to ask the federal government to help us manage our financial affairs.

But neither will we readily accept senseless mandates upon our state, such as forced busing, which require bast expenditures of your tax money while our Congress proudly withholds the use of federal funds.

Kentucky was extremely fortunate last fiscal year in its collection of general fund revenues. While many states were suffering financial calamity because of the energy crisis, Kentucky's coal-related industries were reaping unprecedented profits and as a result contributed higher revenues than estimated to Kentucky's tax coffers, building a one time surplus.

Sound fiscal management dicates that these non-recurring dollars be put to work in areas that will not create a continuing cost to the state, that is why I will propose to put these dollars to work in such areas as debt reduction, grant matching programs, local development programs, and major maintenance and replacement of buildings and equipment, the specifics in those areas will be embodied in my budget address.

I come tonight to suggest that it is time we make a new start. While one could claim the completion of two hundred years as a nation requires that we examine our accomplishments and better shape our future, I find even more convincing proof that we must make a new start.

Complex and expensive programs administered by bigger and bigger centralized government have limited personal freedom, taxed our ability to pay and obscured our self-reliance.

Too often govenment fails to look beyond the urgencies of today. So policies are hastily conceived that evade the consequences of tomorrow.

A history of wasted natural and human resources has led to mistrust of government and weakened the public support that is the foundation of our governmental framework.

We have been on a course which appears to commit everything to eveybody.

In years past, we applauded the generous spirit that loosened the lid on the public treasury.

But, despite the relative affluence of our society, abundance has its limits. We must stop somewhere.

It is an insult to our common sense to suggest that better government requires more spending, or that more spending brings better government.

My common sense objects to advancement of false hopes, to rhetoric without reason.

My common sense tells me that we must dedicate our existing resources to provide for the essential needs of our people.

Those who look through the clear lens of common sense can see many of Kentucky's worthwhile goals drowning in a lake of bureaucracy fed by a river of good intentions.

It is time to drain that lake, to make a new start.

I would like to suggest a theme for that new start—common sense for the common good." That theme should be the yardstick by which we measure each bill, each program or each initiative that is proposed.

Like other Americans this bicentennial year, we pause to reflect on our history and look toward tomorrow. It is proper that we do so. Not only does the time suggest it, but past failures demand it.

When we met at the pre-legislative conference several weeks ago, I examined with you the tremendous improvement of the General Assembly over the years and outlined what I believed to be the proper relationship between a Governor and the General Assembly: That is one of responsible cooperation; partners, working together on behalf of the people.

We have an exciting opportunity. If we use our imagination, if we call upon our common sense, we can build for Kentucky a strong foundation that will hold our people prospering well into America's third century.

But make no mistake about it. Our course will not be an easy one. We must be willing to roll up our sleeves and get down to some good old-fashioned hard work.

The answers will not come easily and the results will not please everyone. We must seek solutions which are in the public interest even when those solutions are opposed by a special few.

We must challenge the form and structure of Kentucky's institutions, we must examine every aspect of government that touches the lives of Kentuckians.

No institution is too entrenched. No structure too powerful and no document too sacred to escape the scrutiny required by tomorrow's needs and plain common sense. And that includes Kentucky's consitution.

What is worthwhile we should and will preserve. What is useless or harmful we should and will discard. When improvements are needed we will make them.

As a veteran legislator, after having been Speaker of the House, I thought I really understood state government. After three years as Lieutenant Governor, I was sure I knew Kentucky state government. Now, after one year as Governor and after these recent weeks of in-depth budget review, I have gained insights into the complexity and severity of the governmental process that have exceeded all knowledge that I previously gained in my prior years of public service.

Kentucky state government is no longer a simple government with simple problems and simple solutions. It is a complex institution with its tentacles intertwined in any number of governmental programs and processes.

I will carry out my constitutional mandate and present to this body in the next few weeks a balanced budget with gubernatorial recommendations for appropriations. However, unlike previous gubernatorial budgets I will not contend that all decisions made therein are conclusive and final, but rather I will invite you to work with me on the resolution of a number of these complex issues. Should this process demonstrate that changes need to be made in the budget I have recommended, and that such changes are in the public interest of our citizens, I will welcome changes. Through our partnership, I am convinced we can make even the most difficult and complex decisions in the public interest.

Tonight, I would like to share with you and the people of Kentucky some conclusions I have already made and which will be reflected in my executive budget soon to be presented to the General Assembly for your consideration.

My first year of government has convinced me that the power granted to the Governor by the General Assembly, to appropriate surplus revenue is one of the most destructive policies ever inflicted on the sound management of state government.

There is absolutely no incentive for state agencies to establish clear priorities, or manage their finances in a responsible manner, if they know that, when the money runs out, the Governor can give them more money.

Average citizens cannot arbitrarily increase their take-home pay when the cost of living goes up. And state government should be no different.

A bill has been introduced that will permit the Governor to make surplus appropriations with approval of the Interim Committee on Appropriations and Revenue. If such legislation is passed I will veto it, or any other bill that seeks to delegate or evade the General Assembly's responsibility to appropriate revenue.

Kentucky's constitution gives the General Assembly the power of appropriation, and while I am Governor that is where I propose to keep it.

State government must be managed on a sound fiscal basis. We cannot create debts now that must be paid for by those who follow. The city of New York provides stark evidence of the folly of "buy now—ay later."

In keeping with this philosophy, in my budget I do not intend to use any revenue bonds for capital construction that will require future appropriations to retire principal and interest.

Furthermore, I have requested appropriations for authorized but unsold issues. This will reduce the annual debt retirement sufficient to make the projects self-sustaining without additional appropriations.

I have concluded that federal dollars are not always the blessing they have been perceived as being.

Too often federal programs are discontinued leaving the state with a costly and unwanted bureaucratic structure as well as additional employees we cannot afford.

Budgetary and statutory remedies will be sought to correct past mistakes in this area, and new federal programs will be carefully scrutinized for hidden pitfalls.

I have concluded that services best performed at the local level should be performed at the local level.

I will offer programs rewarding local initiative in community development, health care, public safety and flood control to name a few.

In an effort to control the growth of government, I will oppose across-the-board increases for existing state programs. Each increase must be justified on the basis of public value and effective use of tax dollars.

This rigorous scrutiny of all state programs will force us to make hard choices—ut priorities must and will be established.

I will ask for no new taxes and no tax increases on consumers in Kentucky. I will recommend changes that ease the tax burden on citizens who most need relief.

To govern wisely is to plan carefully. To plan carefully you and I must look ahead to the needs of Kentuckians and the problems likely to be faced by the commonwealth for many years to come.

After evaluating those needs, we must take action, so that when our children's children look back on our time, they will say we responded well to the challenges we faced.

During this past year, I have become convinced that there are four major areas that demand our special attention if we are to meet those challenges. I have already begun preparation so that we can soon initiate an extensive evaluation designed to make our programs and mechanisms fully responsive.

Our goal in each of these areas of public responsibility will not only be to address current problems, but to develop ongoing structures capable of solving new problems as the future reveals them to us.

First, we must direct attention to Kentucky's economy and the related subjects of environment and energy.

Everything we hope to accomplish depends upon Kentucky having the financial resources necessary to meet the needs of our people.

Secondly, we must assess the educational requirements of our citizens and determine how we can most effectively meet them. Hard questions relating to educational financing, curriculum, and state responsibility must be asked—nd answered.

Our budget will recommend immediate and long needed improvements in our elementary, secondary, and vocational educational programs.

But, if we are to preserve even what progress we have achieved in recent years, we must find acceptable, workable, and productive alternatives which will guarantee an equal educational opportunity to all our children, black and white, without resorting to the destructive device of forced busing.

A third subject demanding careful review and wise planning is that of welfare and human needs. An increasing proportion of the output of our economy is being spent in this area. So we must make deliberate choices among rapidly increasing social demands.

The huge amounts of money spent by Kentucky taxpayers to provide assistance, protect life and property, and provide necessary services must not be distributed in a disjointed, fragmented or uncoordinated manner.

A fourth project will review the effectiveness of government as well as the relationships of governments with each other and the people they serve.

The complexities of the modern world have placed increasing pressure on us to re-examine the roles played by federal, state and local governments in providing public services and allocating public resources.

I will have more to say about the purpose and scope of these inquiries in the near future.

To accomplish our goals you and I must draw fully from the deep well of intellect and concern possessed in the minds and hearts of private citizens throughout the commonwealth. I seek their support, their ideas and suggestions, and their service on special commissions, committees and task forces that must help us if we are to find the practical and workable solutions to the many problems which continue to plague us.

The thrust of my program and the goal of my administration is clear. It is to apply the resources of our state and lead the energies and intellect of our people toward building programs and structures capable of responding to short term problems as well as future demands. It is to administer state government efficiently and responsibly. To apply "common sense for the common good."

I seek a time of governmental openness and responsibility, of public enlightenment and involvement in the decisions we must make.

This, then, is our challenge. To lift our eyes to the horizon, to plan wisely and well, to welcome a new American century with the resolve that for our efforts, generations of Kentuckians will share in a more rewarding, prosperous and meaningful life.

Thank you.

Representative Bobby Richardson moved that the Joint Session of the House and Senate be dissolved. Agreed.

The Speaker resumed the Chair.

Adjournment

Representative Bobby Richardson moved that when the House adjourns it do so until 1:00 p.m., Thursday, January 8, 1976. Agreed.

Representative Bobby Richardson moved that when the House adjourns, it do so by voice vote. Agreed.

Representative Bobby Richardson moved that the House adjourn. Agreed.

The House adjourned until 1:00 p.m., Thursday, January 8, 1976.

THURSDAY, JANUARY 8, 1976

THIRD LEGISLATIVE DAY

The House was called to order by Speaker Kenton.

Prayer by Reverend Herman M. Bowers, First Baptist Church, Frankfort.

The roll was called. All present except Representatives Ackerson and Guenthner.

Representative Isler moved that absent members be granted leave of absence in accordance with the prevailing rules of the House. Agreed.

Representative Hughes moved that the reading of the Journal of January 7, 1976, be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HB 201, by Representatives Clarke, Benson, B. Adams, Beshear, Blume, Craddock, Denham, Hopkins, Kenton, LeMaster, Nett, O'Brien, Pearl, Wible, and Schmidt: AN ACT relating to the taking of the sense of the people of the state as to the necessity and expediency of calling a Constitutional Convention for the purpose of revising or amending the Constitution of the Commonwealth of Kentucky, and such amendments as may have been made to the same, as provided by Section 258 of the present Constitution of Kentucky.

HB 202, by Representatives Givhan, Mason, B. Adams, Bendl, Bennett, Foster, Hardwick, Sale, and Stephens: AN ACT relating to the Auditor of Public Accounts.

HB 203, by Representatives DeFalaise and Schmidt: AN ACT relating to indigent persons.

HB 204, by Representatives DeFalaise, King, Dietz, Donnermeyer, Isler, Mann, McBee, and Schmidt: AN ACT relating to community mental health.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Elections and Constitutional Amendments: **HJR 11.**

Judiciary-Courts: **HB 185, HB 186.**

Labor and Industry: **HB 187.**

Motions, Petitions and Communications

The Clerk read the report of the Committee on Committees announcing the appointment of the following Vice Chairmen of the House Standing Committees:

Agriculture and Natural Resources
Clay Crupper
George E. Stewart

Appropriations and Revenue
Carl Nett
Woody May

Banking and Insurance

Lewis Foster
Charlotte McGill

Business Organizations and Professions
Dottie Priddy
Sam B. Thomas

Cities
John Isler
Ray Maynard

Counties and Special Districts
Adrian Arnold
David G. Mason

Education
Forest "Aggie" Sale
N. Clayton Little

Elections and Constitutional Amendments
Robert F. Hughes
Mae Street Kidd

Health and Welfare
Albert Sidney Adams
Mitchel B. Denham

Highways and Traffic Safety
Hoover Dawahare
G. W. "Bill" Vincent

Judiciary-Courts
Steven L. Beshear

Judiciary-Statutes
Phillip E. King

Labor and Industry
Ray O. Brown
Elmer C. Dietz

Public Utilities and Transportation
John Raymond Turner
Jimmy White

State Government
Kenneth C. Imes

The Clerk read the report of the Committee on Committees announcing the appointment of the following members to the Committee on Rules.

Rules

William G. Kenton, Chairman (D)

John R. Turner (D)
Lloyd Clapp (D)
Joe Head (D)
Bobby Richardson (D)
Mark O'Brien (D)
William Donnermeyer (D)
Joe McBride (D)
Dwight Wells (D)
Adrian Arnold (D)
William Harold DeMarcus (R)
Fred Morgan (D)
Herman Rattliff (R)
Mae Street Kidd (D)
Raymond Overstreet (R)
Norbert L. Blume (D)
Woody May (D)

The Clerk announced the following Committee appointment changes: Representative Robert F. Hughes appointed to the Committee on Health and Welfare and removed from the Committee on Cities; Representative Charlotte McGill removed from the Committee on Health and Welfare; Representative Carl Nett appointed to the Committee on Cities.

Representative Bobby Richardson moved that when the House adjourns that it do so until 10:00 a.m., Friday, January 9, 1976. Agreed.

Representative Bobby Richardson moved that when the House adjourns that it do so by voice vote. Agreed.

Representative Hopkins moved that **HB 183** be withdrawn. Agreed.

The following members requested that their names be added as co-sponsors to bills: Representative LeMaster, **HB 167;** Representative Wright, **HB 193, HB 168;** Representative Romines, **HB 136;** Representative Givhan, **HB 91;** Representative Rattliff, **HB 198;** Representative Holbrook, **HB 167;** Representative Thomas, **HB 167;** Representative Romines, **HB 168.**

Announcements

Representative Mann announced a meeting of the Committee on Business Organizations and Professions at 9:00 a.m., January 9, 1976, Room 307.

Representative Clarke announced a meeting of the Committee on Appropriations and Revenue immediately upon adjournment in Room 307.

Representative Romines filed Floor Amendment No. 1 to **HB 168.**

Adjournment

Representative Bobby Richardson moved that the House adjourn. Agreed.

The House adjourned until 10:00 a.m., Friday, January 9, 1976.

FRIDAY, JANUARY 9, 1976

FOURTH LEGISLATIVE DAY

The House was called to order by Speaker Kenton.

Prayer by Reverend Herman M. Bowers, First Baptist Church, Frankfort.

The roll was called. All present except Representatives W. Allen, Blume, Denham, Freeman, Gay, Hardwick, Head, Holloway, Jones, Maynard, McBride, Morgan, Richards, Stewart, and J. Turner.

Representative Isler moved that absent members be granted leave of absence in accordance with the prevailing rules of the House. Agreed.

Representative Hughes moved that the reading of the Journal of January 8, 1976, be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HB 205, by Representative Morgan: AN ACT relating to eavesdropping.

HB 206, by Representative Morgan: AN ACT relating to architects' liens.

HB 207, by Representative Boatwright: AN ACT relating to state legislative districts.

HB 208, by Representative B. Richardson: AN ACT relating to elevator inspections.

HB 209, by Representative B. Richardson: AN ACT relating to insurance.

HB 210, by Representative B. Richardson: AN ACT relating to the deposit of state funds for examination of insurance companies.

HB 211, by Representative B. Richardson: AN ACT relating to the renewal of hospitalization or surgical or medical expense insurance.

HB 212, by Representative B. Richardson: AN ACT relating to life insurance.

HB 213, by Representative B. Richardson: AN ACT relating to banking.

HB 214, by Representatives DeFalaise and Cooper: AN ACT relating to higher education fees.

HB 215, by Representatives Vincent, A. S. Adams, Brinkley, Bruce, Burnette, Dawahare, Doss, Foster, Lindsay, Little, Sale, Thomas, and R. Turner: AN ACT relating to elevator inspections.

HB 216, by Representatives DeFalaise and Cooper: AN ACT relating to motor vehicle reparations.

HB 217, by Representatives Donnermeyer, Mann, and Schmidt: AN ACT relating to peace officers.

HB 218, by Representative Hopkins: AN ACT relating to liability of parents for wilful property damage caused by minor.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following bills and Resolutions:

Agriculture and Natural Resources: **HB 200.**

Appropriations and Revenue: **HB 198.**

Cities: **HB 189, HB 190.**

Education: **HB 193.**

Elections and Constitutional Amendments: **HB 195, HB 196.**

Health and Welfare: **HB 191, HB 194.**

Judiciary-Statutes: **HB 188, HB 199.**

Labor and Industry: **HB 192.**

Public Utilities and Transportation: **HB 197.**

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Business Organizations and Professions: HB 16, **HB 18, HB 21, HB 24, HB 26, HB 27.**

Education: **HB 72, HB 76, HB 77.**

Appropriations and Revenue: **HB 3, HB 4, HB 5, HB 6, HB 7, HB 8, HB 9, HB 10, HB 11, HB 12, HB 13, HB 14, HB 15.**

Judiciary-Statutes: **HB 88, HB 89, HB 90, HB 91, HB 99.**

Health and Welfare: **HB 162, HB 178.**

Judiciary-Courts: **HB 185, HB 186, HB 94, HB 97.**

Public Utilities and Transportation: **HB 136.**

Highways and Traffic Safety: **HB 83, HB 84, HB 85, HB 87.**

Elections and Constitutional Amendments: **HB 79.**

Motions, Petitions and Communications

Representative Schmidt filed Floor Amendment No. 1 to **HB 179.**

Representative Bobby Richardson moved that when the House adjourns it do so by voice vote and that it adjourn until 4:00 p.m., Monday, January 12, 1976. Agreed.

The following members requested that their names be added as co-sponsors of Bills: Representative Givhan, **HB 188;** Representative Priddy, **HB 168;** Representative Bruce, **HB 172, HB 173;** Representative Hughes, **HB 168;** Representative Foster, **HB 172;** Representative R. Turner, **HB 172, HB 173;** Representative Vincent, **HB 172, HB 173;** Representative Pearl, **HB 167, HB 172, HB 173.**

Representative Mann announced a meeting of the Committee on Business Organizations and Professions for Monday, January 12, 1976, 2:00 p.m., Room 307.

Representative Givhan announced a meeting of the Committee on Judiciary-Statutes for Monday, January 12, 1976, 3:00 p.m., Room 305.

Representative Stephens announced a meeting of the Committee on Education for Monday, January 12, 1976, 3:00 p.m., Room 307.

Recess

Representative Bobby Richardson moved that the House recess for fifteen minutes. Agreed.

At the appointed hour, the Speaker resumed the Chair.

Senate Message

Announcing passage of **SB 15, SB 69.**

Representative Hancock announced a meeting of the Committee on Highways and Traffic Safety for Monday, January 12, 1976, 2:00 p.m., Department of Transportation.

Adjournment

Representative Bobby Richardson moved that the House adjourn until 4:00 p.m., Monday, January 12, 1976. Agreed.

MONDAY, JANUARY 12, 1976

SIXTH LEGISLATIVE DAY

The House was called to order by Speaker Kenton.

Prayer by Reverend J. Williamson Brown, Jr., The Church of the Ascension, Frankfort.

The roll was called. All present.

Representative Hughes moved that the reading of the Journal of January 9, 1976, be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HB 219, by Representative Fitzgerald: AN ACT relating to juvenile courts.

HB 220, by Representatives Imes, Burnette, Blythe, Boatwright, Brinkley, Brown, Foster, Head, Romines, and Sale: AN ACT relating to motor vehicle usage tax.

HB 221, by Representatives Imes, Boatwright, Brinkley, Burnette, Guenthner, and Head: AN ACT relating to inheritance tax.

HB 222, by Representative Beshear: AN ACT relating to the motor vehicle usage tax.

HB 223, by Representative Overstreet: AN ACT relating to the Kentucky Registry of election finance.

HJR 12, by Representative B. Richardson: A JOINT RESOLUTION making an appropriation to the Legislative Research Commission for special expenses incurred in connection with sessions of the General Assembly and declaring an emergency.

HCR 13, by Representative Tobin: A CONCURRENT RESOLUTION petitioning the United States Congress to implement statutory and Constitutional changes needed to reverse the Supreme Court's ban on prayer and Bible reading in the public schools.

HCR 14, by Representatives Imes, Burnette, Holloway, Brown, Guenthner, and Head: A CONCURRENT RESOLUTION petitioning and urging the Congress and the President of the United States to restrict the activities of federal agencies that usurp the powers of the states.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **HB 210.**

Banking and Insurance: **HB 209, HB 211, HB 212, HB 213, HB 216.**

Business Organizations and Professions: **HB 206.**

Counties and Special Districts: **HB 202, HB 203.**

Education: **HB 214.**

Elections and Constitutional Amendments: **HB 201, SB 15.**

Health and Welfare: **HB 204.**

Judiciary-Courts: **SB 69.**

Judiciary-Statutes: **HB 218.**

Labor and Industry: **HB 208, HB 215.**

Public Utilities and Transportation: **HB 205.**

State Government: **HB 207, HB 217.**

Report of Committees

The Committee on Business Organizations and Professions reported **HB 16, HB 21, HB 24, HB 26,** and **HB 27** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 16, AN ACT relating to occupational and professional licensing and public employment for ex-criminal offenders.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. The General Assembly hereby declares that it is the policy of the Commonwealth of Kentucky to encourage and contribute to the rehabilitation of criminal offenders and to assist them in the resumption of the responsibilities of citizenship. The opportunity to secure employment or to pursue, practice, or engage in a meaningful and profitable trade, occupation, vocation, profession or business is essential to rehabilitation and the resumption of the responsibilities of citizenship.

Section 2. A new section of KRS Chapter 446 is created to read as follows:
As used in this Act, unless the context requires otherwise:

(1) "Occupation" includes all occupations, trades, vocations, professions, businesses, or employment of any kind for which a license is required to be issued by the Commonwealth of Kentucky, its agencies, or political subdivisions.

(2) "License" includes all licenses, permits, certificates, registrations, or other means required to engage in an occupation which are granted or issued by the Commonwealth of Kentucky, its agents or political subdivisions before a person can pursue, practice, or engage in any occupation.

(3) "Public employment" includes all employment with the Commonwealth of Kentucky, its agencies, or political subdivisions.

(4) "Conviction of crime or crimes" shall be limited to convictions of felonies, high misdemeanors, and misdemeanors for which a jail sentence may be imposed. No other criminal conviction shall be considered.

(5) "Hiring or licensing authority" shall mean the person, board, commission, or department of the Commonwealth of Kentucky, its agencies or political subdivisions, responsible by law for the hiring of persons for public employment or the licensing of persons for occupations.

Section 3. A new section of KRS Chapter 446 is created to read as follows:

(1) Notwithstanding any other provision of law to the contrary, no person shall be disqualified from public employment, nor shall a person be disqualified from pursuing, practicing, or engaging in any occupation for which a license is required solely or in part because of a prior conviction of a crime or crimes, unless the crime or crimes for which convicted directly relate to the position of employment sought or the occupation for which the license is sought.

(2) In determining if a conviction directly relates to the position of public employment sought or the occupation for which the license is sought, the hiring or licensing authority shall consider:

(a) The nature and seriousness of the crime or crimes for which the individual was convicted;

(b) The relationship of the crime or crimes to the purposes of regulating the position of public employment sought or the occupation for which the license is sought;

(c) The relationship of the crime or crimes to the ability, capacity, and fitness required to perform the duties and discharge the responsibilities of the position of employment or occupation.

(3) A person who has been convicted of a crime or crimes which directly relate to the public employment sought or to the occupation for which a license is sought shall not be disqualified from the

employment or occupation if the person can show competent evidence of sufficient rehabilitation and present fitness to perform the duties of the public employment sought or the occupation for which the license is sought.

(4) Sufficient evidence of rehabilitation for a person who has served out his term or who has received final discharge from a parole or probation program may be established by the production of:

(a) A copy of the local, state, or federal release order; and

(b) Evidence showing that at least one year has elapsed since release from any local, state, or federal correctional institution, or in the case of a parolee or probationer, final discharge from parole or probation supervision and that while on parole or probation the person complied with all terms and conditions of probation or parole;

(5) In the case of a person on active parole or probation supervision sufficient evidence of rehabilitation may be shown by:

(a) Evidence showing that the person has complied fully with the terms and conditions of the parole or probation order for a period of at least one year; and

(b) The written recommendation of the person's parole or probation officer that the person be permitted to engage in the named employment or occupation.

(6) In addition to the documentary evidence presented, the licensing or hiring authority shall consider any evidence presented by the applicant regarding:

(a) The nature and seriousness of the crime or crimes for which convicted;

(b) All circumstances relative to the crime or crimes, including mitigating circumstances or social conditions surrounding the commission of the crime or crimes;

(c) The age of the person at the time the crime or crimes were committed;

(d) The length of time elapsed since the crime or crimes were committed; and

(e) All other competent evidence of rehabilitation and present fitness presented, including, but not limited to; letters of reference by persons who have been in contact with the applicant since his release from any local, state, or federal correctional institution or parole or probation program.

Section 4. A new section of KRS Chapter 446 is created to read as follows:

The following criminal records shall not be used, distributed, or disseminated by the Commonwealth of Kentucky, its agents or political subdivisions in connection with any application for public employment nor in connection with an application for a license:

(1) Records of arrest not followed by a valid conviction.

(2) Convictions which have been, pursuant to law, annulled or expunged.

(3) Misdemeanor convictions for which no jail sentence can be imposed, or in which the fine was less than $50.

Section 5. A new section of KRS Chapter 446 is created to read as follows:

If a hiring or licensing authority denies an individual a position of public employment or disqualifies the individual from pursuing, practicing, or engaging in any occupation for which a license is required, solely or in part because of the individual's prior conviction of a crime, the hiring or licensing authority shall notify the individual in writing of the following:

(1) The grounds and reasons for the denial or disqualification;

(2) That the individual has the right to a hearing if written request for hearing is made within sixty (60) days after service of notice;

(3) The earliest date the person may re-apply for a position of public employment or a license; and

(4) That all competent evidence of rehabilitation presented will be considered upon re-application.

Section 6. A new section of KRS Chapter 446 is created to read as follows:

A person may be denied a license on the grounds that he does not possess good moral character, as specified in Section 7 of this Act.

Section 7. A new section of KRS Chapter 446 is created to read as follows:

(1) A person possesses good moral character unless he has done any of the following:

(a) He has done any act which, if done by a licensee of the occupation in question, would be grounds for the suspension or revocation of his license.

(b) He has done any act involving dishonesty, fraud, or deceit with the intent to substantially benefit himself or another, or substantially injure another.

(c) No act shall be grounds for the denial, revocation or suspension of a license, however, which does not have a substantial relationship to the functions and responsibilities of the licensed occupation and in the same manner and to the same effect as provided in Section 3 of this Act.

(2) A license shall not be denied, suspended, or revoked on the grounds of a lack of good moral character or any similar grounds relating to an applicant's character, reputation, personality, or habits unless the applicant's character, reputation, personality, or habits directly contravene the standards of good moral character as defined in subsection (1).

Section 8. A new section of KRS Chapter 446 is created to read as follows:
Within thirty (30) days after final action by the hiring or licensing authority following a hearing, an aggrieved party may petition the Franklin Circuit Court for review. The court shall decide the case on the record, and shall not set aside the hiring or licensing authority order except for errors of law, or upon a finding that the hiring or licensing authority's action was arbitrary or capricious.

Section 9. A new section of KRS Chapter 446 is created to read as follows:
The provisions of this Act shall prevail over any other laws, rules, and regulations which purport to govern the granting, denial, renewal, suspension, or revocation of a license or the initiation, suspension, or termination of public employment on the grounds of conviction of a crime or crimes.

Section 10. A new section of KRS Chapter 446 is created to read as follows:
The provisions of this Act shall not apply to:
(1) The practice of law; but nothing in this section shall be construed to preclude the Court of Appeals, in its discretion, from adopting the policies set forth in this Act.
(2) The provisions of KRS 61.300.

HB 21, AN ACT relating to the licensing of barbers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 317.410 is amended to read as follows:
As used in this chapter, unless the context requires otherwise:
(1) A "barber" is any person who engages in the practice of "barbering" for the public generally or for consideration;
(2) "Barbering" is the practice upon the human neck and head, principally of shaving or trimming the beard or cutting the hair but includes also:
(a) Giving facial and scalp massage or treatments with oils, creams, lotions or other preparations, either by hand or any contrivance;
(b) Singeing, shampooing, pressing, arranging, dressing or dyeing the hair or applying hair tonics; and
(c) Applying to the neck or head cosmetics, lotions, powders, oils, clays or other preparations;
(3) "Barber shop" is any establishment of whatsoever kind in which the practice of "barbering" is conducted for the general public or for consideration;
(4) "Board" means the Kentucky board of barbering;
(5) "Barber school" or "school of barbering" means an operation, place or establishment of whatsoever kind or form in or through which persons are trained or taught the practice of barbering.
(6) "Lapse fees" means the annual renewal license fee which would have been paid for the period during which a license has lapsed.

Section 2. KRS 317.450 is amended to read as follows:
(1) The barber board shall issue a license to practice barbering to any person who:
(a) Is at least eighteen (18) years of age;
(b) Is of good moral character and temperate habit;
(c) Has acted as a licensed apprentice for at least eighteen (18) months under the immediate supervision of a licensed barber;
(d) Has satisfactorily passed the examination prescribed by the barber board;
(e) Has paid a fee of $20.00.
(2) The barber board shall issue a license to act as apprentice to a barber to any person who:
(a) Is at least sixteen and one-half (16 1/2) years of age;
(b) Is of good moral character and temperate habit;
(c) Has at least four (4) years of high school education;
(d) Has graduated from an accredited or licensed school of barbering;
(e) Has satisfactorily passed the examination prescribed by the barber board; and

(f) Has paid a fee of $20.00.

(3) The barber board shall issue a license to operate a barber shop to any barber licensed under the provisions of this chapter upon application of such barber accompanied by a fee of *twenty dollars ($20.00)* [$10.00] provided that the barber board shall refuse to issue such a license upon a failure to comply with the provisions of this chapter or the rules and regulations of the board adopted pursuant thereto.

(4) The barber board shall issue a license to operate a school of barbering to any person, firm or corporation who or which:

(a) Applies therefor upon forms furnished by the board;

(b) Has the equipment and facilities which may be required by rules and regulations of the board adopted pursuant to this chapter;

(c) Furnished any evidence deemed necessary by the board in the exercise of a sound discretion that it is the purpose of the applicant to establish a bona fide school for the education and training of competent barbers and can and will employ a sufficient number of licensed teachers of barbering to conduct such school;

(d) Pays a fee of $100.

(5) The barber board shall issue a license to teach barbering to any person who:

(a) Is of good moral character and temperate habit;

(b) Has a high school education and at least two (2) years of college;

(c) Has been a licensed and practicing barber for at least thirty-six (36) months;

(d) Has satisfactorily passed the examination prescribed by the board; and

(e) Has paid a fee of $25.00.

(6) Applications for examination required in this section shall be accompanied by an examining fee as follows:

(a) Barber—$20.00;

(b) Apprentice to a barber—$20.00;

(c) Teaching barbering—$25.00.

(7) Licenses issued pursuant to this section shall expire on the first day of July next following the date of their issuance but the board shall renew any license so expiring at no increased renewal fee if the required annual renewal license fee is paid within thirty-one (31) days after the expiration of such license, provided that the applicant for a renewal is otherwise in compliance with this chapter and the rules and regulations of the board adopted pursuant thereto. Any license shall automatically be renewed by the board upon receipt of the required annual license fee prior to the expiration date of such license, provided the applicant for renewal is in compliance with the provisions of this chapter and the rules and regulations of the board adopted pursuant thereto.

(8) The annual renewal license fee for each type of license renewal shall be as follows:

(a) Barber—*$20.00* [$12.00];

(b) Apprentice to barber—*$20.00* [$12.00];

(c) Teacher of barbering—*$20.00* [$15.00];

(d) Barber shop—*$20.00* [$10.00];

(e) Barber school—$75.00.

(9) Except as provided in subsection (7) of this section, the fee for the renewal of an expired license, where the period of expiration does not exceed five (5) years, shall be as follows:

(a) Barber—*$15.00 plus lapse fees* [$50.00];

(b) Apprentice—*$15.00 plus lapse fees* [$50.00];

(c) Barber shop—*$20.00* [$10.00];

(d) Barber school—$75.00;

(e) Teacher of barbering—*$15.00 plus lapse fees* [$25.00].

HB 24, AN ACT relating to the management and use of investments held by eleemosynary institutions and funds.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS 273 is created to read as follows:

In this Act, unless the context otherwise requires:

(1) "Institution" means an incorporated or unincorporated organization organized and operated exclusively for educational, religious, charitable, or other eleemosynary purposes, or a governmental organization to the extent that it holds funds exclusively for any of these purposes.

(2) "Institutional fund" means a fund held by an institution for its exclusive use, benefit, or purposes, but does not include:

(a) A fund held for an institution by a trustee that is not an institution; or

(b) A fund in which a beneficiary that is not an institution has an interest, other than possible rights that could arise upon violation or failure of the purposes of the fund.

(3) "Endowment fund" means an institutional fund, or any part thereof, not wholly expendable by the institution on a current basis under the terms of the applicable gift instrument.

(4) "Governing board" means the body responsible for the management of an institution or of an institutional fund.

(5) "Historic dollar value" means the aggregate fair value in dollars of:

(a) An endowment fund at the time it became an endowment fund;

(b) Each subsequent donation to the fund at the time it is made; and

(c) Each accumulation made pursuant to a direction in the applicable gift instrument at the time the accumulation is added to the fund. The determination of historic dollar value made in good faith by the institution is conclusive.

(6) "Gift instrument" means a will, deed, grant, conveyance, agreement, memorandum, writing, or other governing document (including the terms of any institutional solicitations from which an institutional fund resulted) under which property is transferred to or held by an institution as an institutional fund.

Section 2. A new section of KRS Chapter 273 is created to read as follows:

The governing board may appropriate for expenditure for the uses and purposes for which an endowment fund is estabilshed so much of the net appreciation, realized and unrealized, in the fair value of the assets or an endowment fund over the historic dollar value of the fund as is prudent under the standard established by Section 6 of this Act. This section does not limit the authority of the governing board to expend funds as permitted under other law, the terms of the applicable gift instrument, or the charter of the institution.

Section 3. A new section of KRS Chapter 273 is created to read as follows:

Section 2 of this Act does not apply if the applicable gift instrument indicates the donor's intention that net appreciation shall not be expended. A restriction upon the expenditure of net appreciation may not be implied from a designation of a gift as an endowment, or from a direction or authorization in the applicable gift instrument to use only "income," "interest," "dividends," or "rents, issues or profits," or "to preserve the principal intact," or a direction which contains other words of similar import. This rule of construction applies to gift instruments executed or in effect before or after the effective date of this Act.

Section 4. A new section of KRS Chapter 273 is created to read as follows:

In addition to an investment otherwise authorized by law or by the applicable gift instrument, and without restriction to investments a fiduciary may make, the governing board, subject to any specific limitations set forth in the applicable gift instrument or in the applicable law other than law relating to investments by a fiduciary, may:

(1) Invest and reinvest an institutional fund in any real or personal property deemed advisable by the governing board, whether or not it produces a current return, including mortages, stocks, bonds, debentures, and other securities of profit or nonprofit corporations, shares in or obligations of associations, partnerships, individuals, and obligations of any government or subdivision or instrumentality thereof;

(2) Retail property contributed by a donor to an institutional fund for as long as the governing board deems advisable;

(3) Include all or any part of an institutional fund in any pooled or common fund maintained by the institution; and

(4) Invest all or any part of an institutional fund in any other pooled or common fund available for investment, including shares or interests in regulated investment companies, mutual funds, common trust funds, investment partnerships, real estate investment trusts, or similar organizations in which funds are co-mingled and investment determinations are made by persons other than the governing board.

Section 5. A new section of KRS Chapter 273 is created to read as follows:

Except as otherwise provided by the applicable gift instrument or by applicable law relating to governmental institutions or funds, the governing board may:

(1) Delegate to its committees, officers or employes of the institution or the fund, or agents, including investment counsel, the authority to act in place of the board in investment and reinvestment of institutional funds;

(2) Contract with independent investment advisors, investment counsel or managers, banks, or trust companies, so to act; and

(3) Authorize the payment of compensation for investment advisory or management services.

Section 6. A new section of KRS Chapter 273 is created to read as follows:
In the administration of the powers to appropriate appreciation, to make and retain investments, and to delegate investment management of institutional funds, members of a governing board shall exercise ordinary business care and prudence under the facts and circumstances prevailing at the time of the action or decision. In so doing they shall consider long and short term needs of the institution in carrying out its educational, religious, charitable, or other eleemosynary purposes, its present and anticipated financial requirements, expected total return on its investments, price level trends, and general economic conditions.

Section 7. A new section of KRS Chapter 273 is created to read as follows:
(1) With the written consent of the donor, the governing board may release, in whole or in part, a restriction imposed by the applicable gift instrument on the use or investment of an institutional fund.
(2) If written consent of the donor cannot be obtained by reason of his death, disability, unavailability, or impossibility of identification, the governing board may apply in the name of the institution to the circuit court of the county in which the institution's principal office is located for release of a restriction imposed by the applicable gift instrument on the use or investment of an institutional fund. The Attorney General shall be notified of the application and shall be given an opportunity to be heard. If the court finds that the restriction is obsolete, inappropriate, or impracticable, it may by order release the restriction in whole or in part. A release under this subsection may not change an endowment fund to a fund that is not an endowment fund.
(3) A release under this section may not allow a fund to be used for purposes other than the educational, religious, charitable, or other eleemosynary purposes of the institution affected.
(4) This section does not limit the application of the doctrine of cypres.

Section 8. A new section of KRS Chapter 273 is created to read as follows:
This Act shall be so applied and construed as to effectuate its general purpose to make uniform the law with respect to the subject of this Act among those states which enact it.

Section 9. A new section of KRS Chapter 273 is created to read as follows:
This Act may be cited as the "Uniform Management of Institutional Funds Act."

HB 26, AN ACT relating to business organizations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 273.367 is amended to read as follows:
(1) Every domestic corporation shall, in June of each year, file with the secretary of state a statement verifying the correctness of the location and post office address of its registered office and the name of its agent designated for the service of process, and pay a fee of two dollars ($2.00).
(2) Every foreign corporation shall, in June of each year, file a statement of existence with the secretary of state in such form and containing such information as may be prescribed by him, and pay a fee of four dollars ($4.00). The statement of existence shall also contain a statement verifying the correctness of the location and post office address of the corporation's office and the name of its agent designated for the service of process.
(3) When any change is made in the location and post office address of the registered office of a domestic corporation, or of the Kentucky office of a foreign corporation, or in the name or address of the process agent of any corporation, the corporation shall at once file with the secretary of state a statement of the change. The former agent shall remain agent for the purpose of service of process until a statement designating the new agent is filed.
(4) The secretary of state shall charge a fee of five dollars ($5.00) for the filing of each statement mentioned in subsection (3) of this section.
(5) The agent for service of process provided for in this section may be either an individual resident of this state, or a corporation authorized to transact business in this state and authorized by its articles or certificate of incorporation to act as such agent. Service of process upon a corporate agent, as such agent, may be had by delivering a copy of the process to the president, a vice president, the secretary, or an assistant secretary of such corporate agent.
(6) Whenever a five-year period has elapsed or shall elapse during which period a domestic or foreign corporation has not filed with the secretary of state either a statement verifying the correctness of the location and post-office address of its registered office and the name of its agent for the service of process or the

annual report required by this chapter, the secretary of state shall mail to the corporation at its registered office a notice that if the required statements and/or reports are not filed within six months after the mailing of the notice, the certificate of incorporation will be revoked, if a domestic corporation, or withdrawn, if a foreign corporation. If the required statements and/or reports are not received within six months from the date on which the notice was mailed, the secretary of state shall revoke or withdraw the certificate of incorporation as provided above and mail notice thereof to the corporation at its registered office.

(7) When it appears that upon revocation or dissolution assets remain in the corporation, a member or any citizen may make application to the circuit court of the county in which the registered office of corporation was located for an order making disposition of any remaining property or assets in accordance with the provisions of KRS 273.333(3).

Section 2. KRS 273.177 is amended to read as follows:

(1) The corporate name must include the word "corporation" or "incorporated" or the abbreviation "Inc.," or the word "company" or the abbreviation "Co.," but if the word "company" or the abbreviation "Co." is used it may not be immediately preceded by the word "and" or the abbreviation "&." The provisions of this subsection shall not affect the right of any corporation existing on June 13, 1968, to continue the use of its name.

(2) The corporate name shall not be the same as, nor deceptively similar to, the name of any other domestic corporation or of any foreign corporation authorized to do business in this state unless [:]

[(a) Such other domestic or foreign corporation is about to change its name, or to cease to do business, or is being wound up, or such foreign corporation is about to withdraw from doing business in this state, and]

[(b) The] *the* written consent of such other domestic or foreign corporation to the adoption of its name or a deceptively similar name has been given and *one or more words are added to make such name distinguishable from such other name* [filed in triplicate with the articles of incorporation].

(3) The corporate name shall not contain any word or phrase which indicates or implies that it is organized for any purpose not permitted under KRS 273.161 to 273.390.

(4) The assumption of a name in violation of this section shall not affect or vitiate the corporate existence, but the courts of this state having equity jurisdiction may, upon the application of the state or of any person interested or affected, enjoin such corporation from doing business under a name assumed in violation of this section, although a certificate of incorporation may have been issued.

Section 3. KRS 273.243 is amended to read as follows:

One or more persons may incorporate a corporation by signing and delivering articles of incorporation in *triplicate* [duplicate] to the Secretary of State.

Section 4. KRS 271A.295 is amended to read as follows:

(1) Amendments to the articles of incorporation shall be made in the following manner:

(a) The board of directors shall adopt a resolution setting forth the proposed amendment and, if shares have been issued, directing that it be submitted to a vote at a meeting of shareholders, which may be either the annual or a special meeting. If no shares have been issued, the amendment shall be adopted by resolution of the board of directors and the provisions for adoption by shareholders shall not apply; [. The resolution may incorporate the proposed amendment in restated articles of incorporation which contain a statement that except for the designated amendment the restated articles of incorporation correctly set forth without change the corresponding provisions of the articles of incorporation as theretofore amended, and that the restated articles of incorporation together with the designated amendment supersede the original articles of incorporation and all amendments thereto;]

(b) Written notice setting forth the proposed amendment or a summary of the changes to be effected thereby shall be given to each shareholder of record entitled to vote thereon within the time and in the manner provided in this chapter for the giving of notice of meetings of shareholders. If the meeting be an annual meeting, the proposed amendment of such summary may be included in the notice of such annual meeting;

(c) At such meeting a vote of the shareholders entitled to vote thereon shall be taken on the proposed amendment. The proposed amendment shall be adopted upon receiving the affirmative vote of the holders of a majority of the shares entitled to vote thereon, unless any class of shares is entitled to vote thereon as a class, in which event the proposed amendment shall be adopted upon receiving the affirmative vote of the holders of a majority of the shares of each class of shares entitled to vote thereon as a class and of the total shares entitled to vote thereon.

(2) Any number of amendments may be submitted to the shareholders, and voted upon by them, at one (1) meeting.

Section 5. KRS 271A.270 is amended to read as follows:

(1) The articles of incorporation shall set forth:

(a) The name of the corporation;

(b) The period of duration, which may be perpetual;

(c) The purpose or purposes for which the corporation is organized which may be stated to be, or to include, the transaction of any or all lawful business for which corporations may be incorporated under this chapter;

(d) The aggregate number of shares which the corporation shall have authority to issue; if such shares are to consist of one class only, the par value of each of such shares, or a statement that all of such shares are without par value; or, if such shares are to be divided into classes, the number of shares of each class, and a statement of the par value of the shares of each such class or that such shares are to be without par value;

(e) If the shares are to be divided into classes, the designation of each class and a statement of the preferences, limitations and relative rights in respect of the shares of each class;

(f) If the corporation is to issue the shares of any preferred or special class in series, then the designation of each series and a statement of the variations in the relative rights and preferences as between series insofar as the same are to be fixed in the articles of incorporation, and a statement of any authority to be vested in the board of directors to establish series and fix and determine the variations in the relative rights and preferences as between series;

(g) If any preemptive right created by KRS 271A.130 is to be limited, denied or enlarged, the provisions therefor;

(h) Any provision, not inconsistent with law, which the incorporators elect to set forth in the articles of incorporation for the regulation of the internal affairs of the corporation, including any provision restricting the transfer of shares and any provision which under this chapter is required or permitted to be set forth in the by-laws;

(i) The address *including street and number* of its initial registered office, and the name of its initial registered agent at such address;

(j) The number of directors constituting the initial board of directors and the names and addresses *including streets and numbers* of the persons who are to serve as directors until the first annual meeting of shareholders or until their successors be elected and qualify;

(k) The name and address *including street and number* of each incorporator.

(2) It shall not be necessary to set forth in the articles of incorporation any of the corporate powers enumerated in this chapter.

Section 6. KRS 273.247 is amended to read as follows:

(1) The articles of incorporation shall set forth:

(a) The name of the corporation.

(b) The period of duration, which may be perpetual.

(c) The purpose or purposes for which the corporation is organized.

(d) Any provisions, not inconsistent with law, which the incorporators elect to set forth in the articles of incorporation for the regulation of the internal affairs of the corporation, including any provision for distribution of assets or dissolution or final liquidation.

(e) The address, including street and number, if any, of its registered office in this state, and the name and address, including street and number, if any, of its registered agent, which agent may be an individual or corporation *whose business address is identical with that of the registered office.*

(f) The number of directors constituting the initial board of directors, and the names and addresses of the persons who are to serve as the initial directors.

(g) The name and address of each incorporator.

(2) It shall not be necessary to set forth in the articles of incorporation any of the corporate powers enumerated in KRS 273.161 to 273.390.

(3) Unless the articles of incorporation provide that a change in the number of directors shall be made only by amendment to the articles of incorporation, a change in the number of directors made by amendment to the bylaws shall be controlling. In all other cases, whenever a provision of the articles of incorporation is inconsistent with a bylaw, the provision of the articles of incorporation shall be controlling.

Section 7. KRS 273.181 is amended to read as follows:

(1) Every domestic corporation shall maintain an office in this state to be known as its registered office and shall have an authorized agent upon whom process can be served. The *street and number* [location and post office] address of the original registered office and the name and address of the registered agent shall be stated in the articles of incorporation as provided in subsection (1) (e) of KRS 273.247.

(2) When any change is made in the name or address of the process agent, the corporation shall at once file with the secretary of state a statement of the change. The former agent shall remain agent for the purpose of service of process until a statement designating the new agent is filed. [The secretary of state shall charge a

fee of five dollars ($5.00) for the filing of such statement.]

Section 8. KRS 273.251 is amended to read as follows:

(1) The articles of incorporation in triplicate originals shall be acknowledged by at least one of the incorporators before an officer authorized by the laws of this state to take acknowledgments and the triplicate originals shall be delivered to the secretary of state. If he finds that the articles of incorporation have been signed and acknowledged according to law, he shall, when all taxes, fees and charges have been paid as required by law, record one (1) original in his office, and issue a certificate of incorporation. [There shall be paid to the secretary of state a fee of three dollars ($3.00) for recording the articles, and a fee of one dollar ($1.00) for issuing a certificate of incorporation.]

(2) The certificate of incorporation together with the remaining original articles of incorporation, indorsed with the fact and time of recording in the office of the secretary of state, shall be returned to the incorporator or incorporators or his or their representatives. One (1) original shall then be filed with and recorded by the clerk of the county court of the county in which the registered office of the corporation is situated, and the other shall be retained by the corporation. [The clerk of the county court shall be paid a fee of three dollars ($3.00) for recording said articles.]

Section 9. KRS 273.271 is amended to read as follows:

(1) The triplicate originals of the articles of amendment shall be delivered to the secretary of state. If the secretary of state finds that the articles of amendment have been duly signed and acknowledged according to law, he shall when all taxes, fees and charges therefor have been paid as required by law, record one (1) original in his office and shall issue a certificate of amendment. Thereupon the amendment shall become effective.

(2) The certificate of amendment together with the remaining original articles of amendment indorsed with the fact and time of recording in the office of the secretary of state shall be returned to the corporation. One (1) original shall then be filed with and recorded by the clerk of the county court of the county in which the registered office of the corporation is located, and the other shall be retained by the corporation.

[(3) The secretary of state and the clerk of the county court shall be paid the same fees for recording articles of amendment as they are paid for recording articles of incorporation, and the secretary of state shall be paid the same fee for issuing a certificate of amendment as he is paid for issuing a certificate of incorporation.]

Section 10. KRS 273.273 is amended to read as follows:

(1) A domestic corporation may at any time restate its articles of incorporation as theretofore amended, in the following manner:

(a) If there are members entitled to vote thereon, the board of directors shall adopt a resolution setting forth the proposed restated articles of incorporation and directing that they be submitted to a vote at a meeting of members entitled to vote thereon, which may be either an annual or a special meeting.

(b) Written notice setting forth the proposed restated articles or a summary of the provisions thereof shall be given to each member entitled to vote thereon, within the time and in the manner provided in KRS 273.161 to 273.390 for the giving of notice of meetings of members. If the meeting be an annual meeting, the proposed restated articles or a summary of the provisions thereof may be included in the notice of such annual meeting.

(c) At such meeting a vote of the members entitled to vote thereon shall be taken on the proposed restated articles, which shall be adopted upon receiving the affirmative vote of a majority of the members entitled to vote thereon present at such meeting or represented by proxy.

(d) If there are no members, or no members entitled to vote thereon, the proposed restated articles shall be adopted at a meeting of the board of directors upon receiving the affirmative vote of a majority of the directors in office.

(2) Upon such approval, restated articles of incorporation shall be executed in triplicate by the corporation by its president or vice president and by its secretary or assistant secretary and shall set forth:

(a) The name of the corporation.

(b) The period of its duration.

(c) The purpose or purposes which the corporation is authorized to pursue.

(d) Any other provisions, not inconsistent with law, which are then set forth in the articles of incorporation as theretofore amended, except that it shall not be necessary to set forth in the restated articles of incorporation the registered office of the corporation, its registered agent, its directors or its incorporators.

(3) The restated articles of incorporation shall state that they correctly set forth the provisions of the articles of incorporation as theretofore amended, that they have been duly adopted as required by law and that they supersede the original articles of incorporation and all amendments thereto.

(4) Triplicate originals of the restated articles of incorporation shall be delivered to the secretary of state. If the secretary of state finds that such restated articles conform to law, he shall, when all fees have been paid as in KRS 273.161 to 273.390 prescribed:

(a) Indorse on each of such triplicate originals the word "Filed" and the month, day and year of the filing thereof.

(b) File one (1) of such triplicate originals in his office.

(c) Issue a restated certificate of incorporation to which he shall affix the other duplicate original.

(5) The restated certificate of incorporation, together with the remaining original restated articles of incorporation shall be returned by the secretary of state to the corporation or its representative. One (1) original shall then be filed with and recorded by the clerk of the county court in the county in which the registered office of the corporation is located, and the other shall be retained by the corporation.

[(6) The secretary of state and the clerk of the county court shall be paid the same fees for recording restated articles of incorporation as they are paid for recording articles of incorporation, and the secretary of state shall be paid the same fee for issuing a restated certificate of incorporation as he is paid for issuing a certificate of incorporation.]

Section 11. KRS 273.287 is amended to read as follows:

(1) Upon such approval, articles of merger or articles of consolidation shall be executed in triplicate by each corporation by its president or a vice president and by its secretary or an assistant secretary, and shall set forth:

(a) The plan of merger or the plan of consolidation.

(b) If the members of any merging or consolidating corporation are entitled to vote thereon, then as to each such corporation 1. a statement setting forth the date of the meeting of members at which the plan was adopted, that a quorum was present at such meeting, and that such plan received at least two-thirds (2/3) of the votes which members present at such meeting or represented by proxy were entitled to cast, or 2. a statement that such amendment was adopted by a consent in writing signed by all members entitled to vote with respect thereto.

(c) If any merging or consolidating corporation has no members, or no members entitled to vote thereon, then as to each such corporation a statement of such fact, the date of the meeting of the board of directors at which the plan was adopted and a statement of the fact that such plan received the vote of a majority of the directors in office.

(2) Triplicate originals of the articles of merger or articles of consolidation shall be delivered to the secretary of state. If the secretary of state finds that such articles conform to law, he shall:

(a) Indorse on each of such triplicate originals the word "Filed," and the month, day and year of the filing thereof.

(b) File one (1) of such triplicate originals in his office.

(c) Issue a certificate of merger or a certificate of consolidation.

(3) The certificate of merger or certificate of consolidation, together with the remaining originals of the articles of merger or articles of consolidation, shall be returned to the surviving or new corporation, as the case may be, or its representative. One (1) original shall then be filed with and recorded by the clerk of the county court in the county in which the registered office of the corporation is located, and the other shall be retained by the surviving or new corporation.

[(4) The secretary of state and the clerk of the county court shall be paid the same fees for recording the articles of merger or articles of consolidation as they are paid for recording articles of incorporation, and the secretary of state shall be paid the same fee for issuing a certificate of merger or certificate of consolidation as he is paid for issuing a certificate of incorporation.]

Section 12. KRS 273.317 is amended to read as follows:

(1) Triplicate originals of such articles of dissolution shall be delivered to the secretary of state. If the secretary of state finds that such articles of dissolution conform to law, he shall, when all fees have been paid:

(a) Indorse on each of such triplicate originals the word "Filed," and the month, day and year of the filing thereof.

(b) File one (1) of such duplicate originals in his office.

(c) Issue a certificate of dissolution to which he shall affix the other duplicate original.

(2) The certificate of dissolution, together with the remaining originals of the articles of dissolution shall be returned to the representative of the dissolved corporation. Upon the issuance of such certificate of dissolution the existence of the corporation shall cease, except for the purpose of suits, other proceedings and appropriate corporate action by members, directors and officers as provided by law.

(3) One (1) of the triplicate originals of the articles of dissolution shall be filed with and recorded by the clerk of the county court of the county in which the registered office of the corporation is situated.

[(4) The secretary of state shall be paid a fee of two dollars ($2.00) for recording articles of dissolution and a fee of one dollar ($1.00) for issuing a certificate of dissolution. The clerk of the county court shall be paid a fee of two dollars ($2.00) for recording articles of dissolution.]

Section 13. KRS 273.360 is amended to read as follows:

(1) No foreign corporation shall be authorized to do business in this state until it has filed a certified copy of its articles of incorporation and all existing amendments in the office of the secretary of state. It shall thereafter file a certified copy of subsequent amendments to its articles in the office of the secretary of state. [Such corporations shall pay to the secretary of state an original filing fee of twenty-five dollars ($25.00) and a recording fee of ten dollars ($10.00) for recording the articles of incorporation and accompanying amendments, and shall pay the same recording fee for recording subsequent amendments.]

(2) Every foreign corporation, except foreign insurance companies, carrying on business in this state, shall at all times have an office in this state and an authorized agent in this state upon whom process can be served. A statement, signed by the president or secretary of the corporation, giving the location and post office address of the office and the name and address of the agent, shall be filed with the secretary of state at the same time the certified copy of the articles of incorporation is filed as provided in subsection (1) of this section. [The secretary of state shall charge a fee of five dollars ($5.00) for the filing of the statement required herein.]

Section 14. KRS 273.367 is amended to read as follows:

(1) Every domestic corporation shall, in June of each year, file with the secretary of state a statement verifying the correctness of the location and post office address of its registered office and the name of its agent designated for the service of process [, and pay a fee of two dollars ($2.00)].

(2) Every foreign corporation shall, in June of each year, file a statement of existence with the secretary of state in such form and containing such information as may be prescribed by him [, and pay a fee of four dollars ($4.00)]. The statement of existence shall also contain a statement verifying the correctness of the location and post office address of the corporation's office and the name of its agent designated for the service of process.

(3) When any change is made in the location and post office address of the registered office of a domestic corporation, or of the Kentucky office of a foreign corporation, or in the name or address of the process agent of any corporation, the corporation shall at once file with the secretary of state a statement of the change. The former agent shall remain agent for the purpose of service of process until a statement designating the new agent is filed.

[(4) The secretary of state shall charge a fee of five dollars ($5.00) for the filing of each statement mentioned in subsection (3) of this section.]

(4) [(5)] The agent for service of process provided for in this section may be either an individual resident of this state, or a corporation authorized to transact business in this state and authorized by its articles or certificate of incorporation to act as such agent. Service of process upon a corporate agent, as such agent, may be had by delivering a copy of the process to the president, a vice president, the secretary, or an assistant secretary of such corporate agent.

Section 15. A new section of KRS Chapter 273 is created to read as follows:

In respect of the following documents, the fees to be collected by the secretary of state for filing and issuing, when required by this chapter, and by the clerk of the county court for recording, when required by this chapter, shall be:

(1) Articles of incorporation and a certificate of incorporation, by the secretary of state four dollars ($4.00), and by the clerk, three dollars ($3.00);

(2) Articles of amendment and a certificate of amendment, by the secretary of state, four dollars ($4.00), and by the clerk, three dollars ($3.00);

(3) Restated articles of incorporation and restated certificate of incorporation, by the secretary of state, four dollars ($4.00), and by the clerk, three dollars ($3.00);

(4) Articles of merger or consolidation and a certificate of merger or consolidation, by the secretary of state, four dollars ($4.00), and by the clerk, three dollars ($3.00);

(5) Articles of dissolution and certificate of dissolution, by the secretary of state, three dollars ($3.00), and by the clerk, two dollars ($2.00);

(6) A statement of change of address of registered office or change of registered agent, or both, by the secretary of state, five dollars ($5.00);

(7) A statement by a foreign corporation designating a resident process agent, by the secretary of state, five dollars ($5.00);

(8) An annual report by a domestic corporation, by the secretary of state, two dollars ($2.00);

(9) An annual report by a foreign corporation, by the secretary of state, four dollars ($4.00); and

(10) Certified copy of the articles of incorporation and existing amendments, by the secretary of state, twenty-five dollars ($25.00) as an original filing fee, and a recording fee of ten dollars ($10.00); ten dollars ($10.00) for recording subsequent amendments.

(11) Any other statement or report of a foreign or domestic corporation, by the secretary of state, four dollars ($4.00), and by the clerk, two dollars ($2.00).

Section 16. A new section of KRS Chapter 273 is created to read as follows:

The secretary of state shall charge and collect:

(1) For furnishing a certified copy of any document, instrument, or paper relating to a corporation, fifty cents ($.50) per page and one dollar ($1.00) for the certificate and affixing the seal thereto.

(2) At the time of any service of process on him as resident agent of a corporation, four dollars ($4.00), which amount may be recovered as taxable costs by the party to the suit or action causing such service to be made if such party prevails in the suit or action.

Section 17. KRS 365.015 is amended to read as follows:

(1) *The real name of a person shall include his or her surname at birth, or his or her name as changed by a court of competent jurisdiction, or the surname of a married woman* [The real name of a person is the name set forth on his birth certificate]; the real name of a domestic general partnership is that name which includes the real name of at least one of the partners; the real name of a domestic limited partnership is that name which includes the real name of at least one of the general partners; the real name of a domestic business trust is the name set forth in the declaration of trust; and the real name of a domestic corporation is the name set forth in its articles of incorporation. The real name of a foreign general or limited partnership and of a foreign business trust is the name recognized by the laws of the foreign state under which it is formed as being the real name; and the real name of a foreign corporation is the name set forth in its articles of incorporation or the fictitious name adopted for use in this state under KRS *271A.530* [271A.520].

(2) No person, general or limited partnership, business trust or corporation shall conduct or transact business in this state under an assumed name or any style other than his or its real name, as defined in subsection (1) of this section, unless such person, partnership, business trust or corporation has filed a certificate of assumed name.

The certificate shall state the assumed name under which the business will be conducted or transacted, the real name of person, partnership, business trust or corporation and his or its address, *including street and number.*

A separate certificate shall be filed for each assumed name.

No certificate to be filed with the secretary of state shall set forth an assumed name which is identical or deceptively similar to any other assumed name or any corporate name previously filed with the secretary of state unless the certificate is accompanied by the written consent of the prior holder of the assumed or corporate name and such word or words are added to the proposed assumed name so as to distinguish it from the previously filed assumed or corporate name.

The certificate shall be executed and acknowledged for a person, by the person; for a general partnership, by all the partners; for a limited partnership, by a general partner; for a business trust, by the trustees; for a corporation, by its president or vice president and secretary or assistant secretary.

(3) The certificate of assumed name for a person shall be filed with the county court clerk of each county wherein business will be conducted or transacted under an assumed name. The certificate of assumed name for a general or limited partnership, business trust or corporation shall be filed with the secretary of state and with the county court clerk of each county wherein business will be conducted or transacted under an assumed name.

(4) *Upon discontinuing the use of an assumed name, the certificate shall* [The certificate of assumed name may] be withdrawn by filing a certificate in the office wherein the original certificate of assumed name was filed. The certificate of withdrawal shall state the assumed name, the real name and address of the party transacting business and the date upon which the original certificate was filed. The certificate of withdrawal shall be signed and acknowledged as required in subsection (2) of this section.

(5) The county court clerk shall receive a fee of one dollar ($1.00) for filing each certificate, and the secretary of state shall receive a fee of ten dollars ($10.00) for filing each certificate.

Section 18. KRS 365.990 is amended to read as follows:

(1) Any person who violates any of the provisions of [subsection (1) of] KRS *365.015* [365.010] shall be fined not less than twenty-five dollars nor more than one hundred dollars, or imprisoned for not less than ten days nor more than thirty days, or both, and each day that the violation continues shall constitute a separate offense.

(2) Any person who violates any of the provisions of KRS 365.020 to 365.050 shall, for each offense, be fined not less than one hundred dollars nor more than one thousand dollars, or imprisoned for not more than six months, or both. Any person who, as agent of any person or as director, officer or agent of any corporation assists or aids in a violation of any of such provisions by the person or corporation for which he is director, officer or agent, shall be responsible therefor equally with such person or corporation, and in a prosecution brought by the local commonwealth attorney against him under this subsection it shall be sufficient to allege and prove the unlawful intent of the person or corporation for whom he acts.

(3) Any person who violates any of the provisions of KRS 365.100 shall be fined not less than two hundred dollars for each offense.

(4) Any person who violates any of the provisions of KRS 365.110 shall be fined not less than ten dollars nor more than fifty dollars for each offense.

(5) Any agent or employe of a corporation or any other person who violates any of the provisions of subsection (2) of KRS 365.220 shall be fined not less than one hundred dollars nor more than one thousand dollars for each offense, and each day's continuance of the violation shall constitute a separate offense.

(6) A conviction of a corporation of violating any of the provisions of KRS 365.210 or 365.220 shall operate to forfeit its charter or right to do business in this state. Proceedings may be instituted by the Commonwealth's attorney in any district in this state to forfeit the charter or right to do business in this state of any corporation violating any of the provisions of KRS 365.210 or 365.220, and to subject the corporation charged, if found guilty, to the penalty imposed in subsection (7) of this section.

(7) Any company that violates any of the provisions of KRS 365.230 shall be fined not less than one hundred dollars nor more than one thousand dollars, and if it is a corporation it shall, upon conviction, forfeit its charter.

(8) Any person who violates any of the provisions of KRS 365.240 shall, for each offense, be fined not less than two hundred dollars nor more than one thousand dollars, or imprisoned for not less than three months nor more than one year, or both.

(9) Failure to maintain the register or to make the report to the sheriff as required by KRS 365.250 shall be a misdemeanor punishable by a fine of not more than one hundred dollars or by imprisonment for not more than thirty days, or both, and shall be prima facie evidence that such dealer, collector or vendor received the used copper wire or cable not registered or reported, knowing it to be stolen in violation of KRS 433.290.

Section 19. KRS 274.075 is amended to read as follows:

The corporate name of a corporation organized under this chapter shall consist of only the last names of two or more of its shareholders, and the word "chartered" or "professional service corporation" or the abbreviation "P.S.C." unless there is only one stockholder, in which event the corporate name shall consist of the stockholder's name and one of the aforementioned suffixes. However, a professional service corporation may render professional services and exercise it's authorized powers under a name which is identical to its corporate name except that the word "chartered" or "professional service corporation" or the abbreviation "P.S.C." is omitted, provided that the corporation has first registered the name to be so used in the manner provided by law in KRS *365.015* [365.010]. Provided, further, That nothing contained in this section shall be construed to authorize advertising of professional services in any manner contrary to the ethical standards of the profession involved, and such standards may be enforced under KRS 274.065, by appropriate regulation of the governing board thereof.

Section 20. KRS 454.210 is amended to read as follows:

(1) As used in this section, "person" includes an individual, his executor, administrator, or other personal representative, or a corporation, partnership, association, or any other legal or commercial entity, who is a nonresident of this commonwealth.

(2) (a) A court may exercise personal jurisdiction over a person who acts directly or by an agent, as to a claim arising from the person's:

1. Transacting any business in this commonwealth;

2. Contracting to supply services or goods in this commonwealth;

3. Causing tortious injury by an act or omission in this commonwealth;

4. Causing tortious injury in this commonwealth by an act or omission outside this commonwealth if he regularly does or solicits business, or engages in any other persistent course of conduct, or derives substantial revenue from goods used or consumed or services rendered in this commonwealth, provided that the tortious injury occurring in this commonwealth arises out of the doing or soliciting of business or a persistent course of conduct or derivation of substantial revenue within the commonwealth;

5. Causing injury in this commonwealth to any person by breach of warranty expressly or impliedly made in the sale of goods outside this commonwealth when the seller knew such person would use, consume, or be affected by, the goods in this commonwealth, if he also regularly does or solicits business, or engages in any other persistent course of conduct, or derives substantial revenue from goods used or consumed or

services rendered in this commonwealth;

6. Having an interest in, using, or possessing real property in this commonwealth, providing the claim arises from the interest in, use of, or possession of the real property, provided, however, that such in personam jurisdiction shall not be imposed on a nonresident who did not himself voluntarily institute the relationship, and did not knowingly perform, or fail to perform, the act or acts upon which jurisdiction is predicated;

7. Contracting to insure any person, property, or risk located within this commonwealth at the time of contracting.

(b) When jurisdiction over a person is based solely upon this section, only a claim arising from acts enumerated in this section may be asserted against him.

(3) (a) When personal jurisdiction is authorized by this section, service of process may be made on such person, or any agent of such person, in any county in this commonwealth, where he may be found, or on the secretary of state who, for this purpose, shall be deemed to be the statutory agent of such person.

(b) The clerk of the court in which the action is brought shall issue a summons against the defendant named in the complaint and direct it to the sheriff of Franklin County. The sheriff shall execute the summons by delivering a true copy to the secretary of state and shall also deliver with the summons an attested copy of plaintiff's complaint. The secretary of state shall immediately mail the copy of the summons and complaint to the defendant at the address given in the complaint. The letter shall be posted by prepaid registered mail or by certified mail, return receipt requested and shall bear the return address of the secretary of state. The sheriff shall make the usual return to the court, and in addition the secretary of state shall make a return to the court showing that the acts contemplated by this statute have been performed, and shall attach to his return the registry receipt, if any. Summons shall be deemed to be served on the return of the secretary of state and the action shall proceed as provided in the Rules of Civil Procedure.

(c) The sheriff serving the summons upon the secretary of state shall pay to him, at the time of service, a fee of four dollars, which shall be taxed as costs in the action.

(4) When the exercise of personal jurisdiction is authorized by this section, any action or suit may be brought in the county wherein the plaintiff resides or where the cause of action or any part thereof arose.

(5) A court of this commonwealth may exercise jurisdiction on any other basis authorized in the Kentucky Revised Statutes or by the Rules of Civil Procedure, notwithstanding this section.

HB 27, AN ACT relating to the licensing of barbers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 317.590 is amended to read as follows:

(1) Licenses shall not be issued or renewed and such licenses as are issued shall be revoked upon proper showing of applicant's or licensee's:

[(a) Conviction of a felony;]

(a) [(b)] Gross malpractice or incompetence; or

(b) [(c)] Mental or physical health that would endanger public health or safety.

(2) A license may be refused or revoked by the board for the following reasons:

(a) Failure to comply with regulations or rules of the board;

(b) False or deceptive advertising;

(c) Practicing in an unlicensed shop or in a shop knowing that such shop is not complying with this chapter or regulations of the board promulgated pursuant to this chapter;

(d) Immoral or unprofessional conduct;

(e) Teaching in an unlicensed school or in a school knowing that such school is not complying with this chapter or regulations of the board promulgated pursuant to this chapter.

The Committee on Judiciary-Statutes reported **HB 88** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 88, AN ACT relating to marriage licenses.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 402.100 is amended to read as follows:

Marriage License

Kentucky ....

To any person licensed to celebrate marriages: You are hereby authorized to join together in the holy state of matrimony, according to the rites and ceremonies of your church or religious denomination and the laws of the commonwealth of Kentucky .... and ....

Given under my hand, as clerk of .... court of .... County (or City), this .... day of ...., 19......

....Clerk. ....

Marriage Certificate

Kentucky: In the clerk's office of the ....

court for the County (or City) of ....

Date of marriage ....

Place of marriage ....

Full names of parties ....

Age of husband .... years. Condition (single, widowed or divorced) ....

Age of wife .... years. Condition (single, widowed or divorced) ....

Race [(white or colored)]..

Husband's place of birth ....

Residence ....

Wife's place of birth ....

Residence ....

Name of parents ....

Husband ....

and ....

Wife ....

and ....

Occupation of husband ....

Given under my hand this .... day of ...., 19........

....Clerk.

....

....

Certificate of Time and Place of Marriage

I, ..., a .... of the .... church (or religious order), do certify that on the .... day of ...., 19......, at ...., Kentucky, under authority of the above license, I united in marriage the persons named and described therein. I qualified and gave bond according to the law authorizing me to celebrate the rites of marriage in the County (or City) of .... State of Kentucky.

Given under my hand this .... day of ...., 19.........

....

(Person who performed ceremony, sign here.)

Certificate of Person Performing Marriage Ceremony (to be returned and delivered to the parties married)

I, ..., a .... of the .... church (or religious order), do certify that on the .... day of ...., 19....., at ...., Kentucky, under authority of a license issued by ...., Clerk of .... court of .... County (or City), State of Kentucky, dated the .... day of ...., 19......, I united .... and .... as husband and wife.

Given under my hand this .... day of ...., 19......

....

tur
(Person who performed ceremony, sign here.)

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Elections and Constitutional Amendments: **HB 150.**

Business Organizations and Professions: **HB 17, HB 22.**

Health and Welfare: **HB 80**

Motions, Petitions and Communications

Representative B. Richardson moved that the following Administrative Regulations be referred for review to the Committee on Judiciary-Statutes: 503 KAR 5:020, 503 KAR 1:070. Agreed.

Representative B. Richardson moved that the following Administrative Regulations be referred for review to the Committee on Business Organizations and Professions: 201 KAR 19:090. Agreed.

Representative Clarke moved that the rules be suspended for the Introduction of Bills and Resolutions. Agreed.

Introduction of Bills and Resolutions

HB 224, by Representative Clarke, Benson and Blume: AN ACT relating to conflicts of interest of public officers and employes.

HB 225, by Representatives Nett, Clarke, Ackerson, Blythe, Kleier, Priddy, Schmidt, Siler, and Wooden: AN ACT relating to the General Assembly.

HB 226, by Representatives Mann and Schmidt: AN ACT relating to sudden infant death syndrome.

HB 227, by Representative White: AN ACT relating to insurance agents or solicitors.

Motions, Petitions and Communications (continued)

Representative Stephens announced a meeting of the Committee on Education for Tuesday, January 13, 1976, 10:00 a.m., Room 205.

The following members requested that their names be added as co-sponsors of Bills and Resolutions: Representative J. Allen, **HR 13;** Representative Brinkley, **HR 13;** Representative Burnett, **HB 13, HB 168;** Representative Cyrus, **HB 148;** Representative Donnermeyer, **HB 115;** Representative Hancock, **HB 15;** Representative Head, **HB 150;** Representative Hughes, **HR 5, HR 6, HR 13;** Representative Jones, **HB 180;** Representative LeMaster, **HB 172, HB 173;** Representative Wooden, **HB 191.**

Adjournment

Representative B. Richardson moved that the House adjourn until 2:00 p.m., Tuesday, January 13, 1976.

On the roll call the vote was yeas 72-Ackerson, B. Adams, A. S. Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blandford, Blume, Boatwright, Brinkley, Brown, Bruce, Carpenter, Crupper, Cyrus, DeFalaise, Denham, Deskins, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Floyd, Foster, Freeman, Gay, Givhan, Gray, Guenthner, Hancock, Hardwick, Holbrook, Holloway, Hopkins, Hughes, Hurst, Isler, Kenton, Kidd, Kleier, LeMaster, Little, Mann, McBee, McBride, McGill, Morris, Muncy, Nett, O'Brien, Pearl, Priddy, Rattliff, B. Richardson, P. Richardson, Robinson, Schmidt, Siemens, Siler, Stephens, Tobin, Wells, Wible, Wooden, Yates. Nays 3-Blythe, Vincent, Wright.

The motion to adjourn was adopted.

TUESDAY, JANUARY 13, 1976

SEVENTH LEGISLATIVE DAY

The House was called to order by Speaker Kenton.

Prayer by Reverend J. Williamson Brown, Jr., The Church of the Ascension, Frankfort.

The roll was called. All present except Representative R. A. Turner.

Representative Isler moved that absent members be granted leave of absence in accordance with the prevailing rules of the House. Agreed.

Representative Hughes moved that the reading of the Journal of January 12, 1976, be dispensed with and the same approved. Agreed.

Representative Bendl moved that the rules be suspended for the granting of the privilege of the floor to the National March of Dimes Poster Child, Tammy Patterson, and for action on a Citation. Agreed.

Representative Gay moved the adoption of the following Legislative Citation No. 1:

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and pays tribute to Tammy Patterson, a blue-eyed, blond charmer from the State of Tennessee for her exemplification of youth's indomitable spirit and her determination as she travels throughout the nation representing the thousands of children who have benefited from the March of Dimes. The House recognizes Tammy for the honor of serving as 1976 National Poster Child for the March of Dimes National Foundation. (Sponsored by Representative Bendl)

Agreed.

Introduction of Bills and Resolutions

HB 228, by Representative Hughes: AN ACT relating to the Public Service Commission.

HB 229, by Representatives Hughes, Ackerson, Bennett, Brinkley, Burnette, Dawahare, Doss, Dunn, Floyd, Gay, Guenthner, Hardwick, Holloway, Imes, May, Morris, Priddy, Romines, Wooden, Wright, and Yates: AN ACT relating to elementary and secondary education.

HB 230, by Representative McBride: AN ACT relating to life insurance.

HB 231, by Representative McBride: AN ACT relating to alcoholic beverages.

HB 232, by Representatives Schmidt, Muncy, Siler, Gay, Cooper, Rattliff, and Blair: AN ACT relating to income taxation.

HB 233, by Representatives DeFalaise, Donnermeyer, Mann, Isler, and Dietz: AN ACT relating to elections.

HB 234, by Representative DeFalaise: AN ACT relating to campaign financing.

HB 235, by Representative Hopkins: AN ACT relating to sales and use tax.

HB 236, by Representatives Givhan, Stephens, Benson, Blandford, Blythe, Fitzgerald, Guenthner, Hurst, and Wible: AN ACT relating to comparative fault.

HB 237, by Representatives Mann, Bevins, DeFalaise, Dietz, Isler, Nett, Schmidt, Thomas, and White: AN ACT relating to exceptional children.

HCR 15, by Representative B. Richardson: A CONCURRENT RESOLUTION relating to adjournment of the General Assembly.

Senate Message

Announcing passage of **SB 21.**

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **HB 220, HB 221, HB 222, HJR 12.**

Banking and Insurance: **HB 227.**

Elections and Constitutional Amendments: **HB 223, HCR 13.**

Health and Welfare: **HB 226.**

Judiciary-Courts: **HB 219.**

State Government: **HB 224, HB 225, HCR 14.**

Report of Committees

The Committee on Education reported **HB 77** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 77, AN ACT relating to financial statements.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 424.220 is amended to read as follows:

Excepting officers of a city of the first class, a county containing such a city, a public agency of such a city or county, or a joint agency of such a city and county, or of a school district of such a city or county, and excepting officers of a city of the second class that is required by law to publish an annual audit of its financial affairs, every public officer of any school district, city, county, or subdivision or district less than a county, whose duty it is to collect, receive, have the custody, control or disbursement of public funds, and every officer of any board or commission of a city, county or district whose duty it is to collect, receive, have the custody, control or disbursement of funds collected from the public in the form of rates, charges or assessments for services or benefits, shall at the expiration of each fiscal year prepare an itemized, sworn statement of the funds collected, received, held or disbursed by him during the fiscal year just closed, unless he has complied with KRS 424.230. The statement shall show the amount of funds collected and received, from what sources received, the amount disbursed, the date of each disbursement, for what purpose expended, and to whom paid, except that only the totals of amounts paid to each individual as salary or commission and public utility bills need to be shown *and except that the amount of salaries paid to all teachers shall be shown as a lump sum expenditure for the school district and not by amount paid to individual teachers; however, the local board of education must have accessible a factual list of individual salaries for public scrutiny*. The officer shall procure and include in or attach to the statement as a part thereof a certificate from the cashier or other proper officer of the banks in which the funds are or have been deposited during the past year, showing the balance, if any, of funds to the credit of the officer making the statement. The officer shall, within sixty days after the close of the fiscal year, cause the statement to be published in full in a newspaper qualified under KRS 424.120 to publish advertisements for the city, county or district, as the case may be. Promptly after the publication is made, the officer shall file a written or printed copy of the advertisement with proof of publication, in the office of the county court clerk of the county. Within thirty days after publication, the officer shall file with the Auditor of Public Accounts a copy of the newspaper containing the statement.

The Committee on Public Utilities and Transportation reported **HB 136** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 136, AN ACT relating to motor vehicles.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 186.041 is amended to read as follows:

(1) The department of revenue shall issue, free of charge, a certificate of registration and two (2) license plates to each disabled veteran who has been or shall be issued a motor vehicle by the veterans administration under the provisions of title 38, section 1901, of the United States Code or any other public law that may be passed by the congress of the United States, and who is a resident of Kentucky.

(2) The license plates in subsection (1) of this section shall be printed in three (3) colors, red, white and blue. One-half (1/2) of the license plate shall be in one color, the other half (1/2) a second color and the figures and lettering the third color. The color scheme shall alternate each year. Each tag shall contain the name of the state, the year, the registration number and the words "Handicapped Vet."

(3) License plates provided under this section shall be issued only as long as the veteran is the owner of a motor vehicle provided by the veterans administration. Such license plates are not transferable to any person or persons not entitled to them under this section.

(4) No county, city, town or any other political subdivision of this state shall require any license or fee from any disabled veteran for the privilege of operating a motor vehicle licensed by the department under the provisions of this section upon the streets or alleys of any political subdivision, any other provisions of law to the contrary notwithstanding.

(5) Application for the special license plates shall be made to the department in accordance with such regulations as the department may have issued.

(6) When a motor vehicle bearing plates issued to a disabled veteran as prescribed in this section is being operated by or for the benefit of the disabled veteran, the motor vehicle may be parked for a period of two (2) hours in excess of the legal parking period permitted by local authorities, except where local ordinances or police regulations prohibit parking on a highway for the purpose of creating a fire lane or where the ordinances or police regulations provide for the accommodation of heavy traffic during morning, afternoon or evening hours or where the motor vehicle is parked in such a manner as to clearly be a traffic hazard.

(7) [(6)] The department may make such reasonable rules and regulations as it deems necessary to further the purpose of this section.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Judiciary-Statutes: **HB 188, HB 167, HB 143, HB 179.**

Business Organizations and Professions: **HB 23.**

Banking and Insurance: **HB 209, HB 211, HB 212, HB 213.**

Counties and Special Districts: **HB 67.**

Calendar

HB 16, HB 21, HB 24, HB 26, HB 27, and **HB 88** taken from the Calendar and ordered read at length for the second time. Representative B. Richardson moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Representative B. Richardson moved that the rules be suspended for introduction of and action upon a Resolution. Agreed.

Representative B. Richardson moved the adoption of the following **HCR 15:**

HR 15, A CONCURRENT RESOLUTION relating to adjournment of the General Assembly.

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That when the House of Representatives and the Senate do adjourn on Wednesday, January 14, 1976, they do so to convene again on Tuesday, January 20, 1976, at a time set by motion upon adjournment.

On the roll call the vote was yeas 71-Ackerson, B. Adams, A. S. Adams, J. Allen, Arnold, Bennett, Benson, Beshear, Bevins, Blair, Blandford, Blume, Boatwright, Brinkley, Brown, Burnette, Carpenter, Clapp, Craddock, Crupper, Cyrus, Dawahare, Denham, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Floyd, Foster, Gay, Givhan, Gray, Guenthner, Head, Hughes, Isler, Jones, Kenton, Kidd, LeMaster, Little, Mann, Mason, Maynard, McBee, McBride, McGill, Morgan, Morris, Muncy, Pearl, Rattliff, Richards, B. Richardson, P. Richardson, Romines, Sale, Siemens, Siler, Stewart, Tobin, Thomas, J. Turner, Vincent, Wells, White, Wible, Wooden, Wright, Yates. Nays 16-W. Allen, Bendl, Blythe, DeFalaise, DeMarcus, Hancock, Hardwick, Holbrook, Holloway, Hopkins, Imes, Lindsay, Nett, Overstreet, Robinson, Stephens.

HCR 15 was adopted.

Motions, Petitions and Communications

Representative Benson moved that **HB 58** be taken from the Committee on Cities and reassigned to the Committee on State Government. Agreed.

Representative Wible moved that the rules be suspended for the purpose of posting a bill for consideration. Agreed.

Posting of Bill and Resolutions for Consideration

Judiciary-Courts: **SB 69.**

Representative Clarke requested that his name be withdrawn as a co-sponsor of **HB 225.**

Representative Romines moved that the rules be suspended for a roll call to be taken to show co-sponsors of **HB 168.** Agreed.

The following members voted to co-sponsor **HB 168:** Ackerson, W. Allen, Bennett, Brinkley, Burnette, Deskins, Doss, Dunn, Gay, Hardwick, Holloway, Little, Mason, O'Brien, Priddy, Stewart, J. Turner, Wright, Yates.

Representative Dunn moved that the rules be suspended for a roll call to be taken to show co-sponsors of **HB 136.** Agreed.

The following members voted to co-sponsor **HB 136:** Bendl, Bennett, Benson, Bevins, Blair, Blandford, Blythe, Bruce, Carpenter, Cooper, Craddock, Cyrus, Dawahare, DeFalaise, Deskins, Dietz, Donnermeyer, Doss, Fitzgerald, Foster, Gay, Gray, Guenthner, Hardwick, Head, Holloway, Hopkins, Hughes, Imes, Isler, Jones, King, LeMaster, Little, Mann, Mason, Maynard, McBee, McGill, Morris, Muncy, O'Brien, Overstreet, Pearl, Priddy, Rattliff, Richards, Robinson, Romines, Sale, Siemens, Siler, Stewart, Tobin, Thomas, J. Turner, White, Wible, Wooden, Wright, Yates.

Representative Donnermeyer announced a majority caucus on January 14, 1976 at 11:00 a.m., State Reception Room.

Representative Dunn announced the meeting hour for the Committee on Elections and Constitutional Amendments had been changed from the hour of 8:00 a.m. to 9:00 a.m., Wednesday, January 14, 1976.

The following members requested that their names be added as co-sponsors of Bills and Resolutions: Representative Kidd, **HB 136**; Representative Morris, **HB 173**, **HB 172**; Representative Deskins, **HB 200**, **HB 167**, **HB 161**; Representative Jones, **HB 167**; Representative Wright, **HCR 13**; Representative Crupper, HB 172, **HB 173**; Representative W. Allen, **HJR 7**; Representative Pearl, **HB 156**; Representative Guenthner, **HB 168**; Representative Doss, **HB 185**; Representative Brown, **HB 222**; Representative Kleier, **HB 136**; Representative Thomas, HB 185; Representative Burnette, **HB 136**; Representative P. Richardson, **HB 172**, **HB 173**. Representative Priddy, **HCR 13**, **HCR 6**, **HCR 5**; Representative Benson, **HB 114**, **HB 115**, **HB 113**, **HB 15**; Representative Isler, **HB 167**; Representative Dietz, **HB 136**; Representative Wells, **HB 173**, **HB 172**; Representative Hardwick, HB 148; Representative Gray, **HB 100**, **HB 148**, **HB 129**; Representative Foster, **HB 200**, **HB 167**; Representative Fitzgerald, **HB 167**; Representative Bennett, **HCR 5**, **HB 168**, **HB 100**; Representative Boatwright, **HCR 13**.

Representative Wright requested that he be recorded as voting "nay" on **HCR 15**.

Adjournment

Representative B. Richardson moved that the House adjourn until 2:00 p.m., Wednesday, January 14, 1976.

On the roll call the vote was yeas 78-Ackerson, B. Adams, A. S. Adams, W. Allen, Arnold, Bendl, Benson, Beshear, Bevins, Blair, Blandford, Blythe, Boatwright, Brown, Bruce, Burnette, Carpenter, Clapp, Cooper, Craddock, Crupper, DeFalaise, DeMarcus, Denham, Deskins, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Floyd, Foster, Givhan, Gray, Hancock, Hardwick, Head, Holbrook, Holloway, Hughes, Hurst, Imes, Isler, Jones, Kidd, King, LeMaster, Lindsay, Mann, Mason, Maynard, McBee, McBride, McGill, Morris, Nett, O'Brien, Overstreet, Pearl, Priddy, Richards, B. Richardson, P. Richardson, Robinson, Romines, Sale, Schmidt, Siemens, Siler, Stephens, Stewart, Thomas, J. Turner, Vincent, White, Wible, Wooden, Yates. Nays 0.

The motion to adjourn was adopted.

WEDNESDAY, JANUARY 14, 1976

EIGHTH LEGISLATIVE DAY

The House was called to order by Speaker Kenton.

Prayer by Reverend J. Williamson Brown, Jr., the Church of the Ascension, Frankfort.

The roll was called. All present except Representative R. Turner.

Representative Isler moved that absent members be granted leave of absence in accordance with the prevailing rules of the House. Agreed.

Representative Hughes moved that the reading of the Journal of January 13, 1976, be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HB 238, by Representative Maynard: AN ACT relating to financing pilot projects of transportation services.

HB 239, by Representative Kidd: AN ACT relating to elections.

HB 240, by Representative Imes: AN ACT relating to state legislative districts.

HB 241, by Representatives Bevins, Stephens, Ackerson, A. S. Adams, W. Allen, Bendl, Brown, Craddock, Dawahare, Donnermeyer, Gay, Hopkins, LeMaster, Little, Mann, McBee, Sale, Siler, Thomas, and White: AN ACT relating to the common schools.

HB 242, by Representatives DeMarcus and Muncy: AN ACT relating to inheritance and estate taxes.

HB 243, by Representatives DeMarcus, Muncy, and Siler: AN ACT relating to juvenile courts.

HB 244, by Representative Thomas: AN ACT relating to city and suburban bus and taxicab companies.

HB 245, by Representative DeFalaise: AN ACT relating to condemnation.

HB 246, by Representative DeFalaise: AN ACT relating to registration of trailers, semitrailers, and housetrailers.

HB 247, by Representative DeFalaise: AN ACT relating to mobile homes and recreational vehicles.

HB 248, by Representative Richards: AN ACT relating to personal leave for school employes.

HB 249, by Representative Richards: AN ACT relating to sick leave for teachers.

HB 250, by Representative Clarke: AN ACT relating to mental examination.

HB 251, by Representative Clarke: AN ACT relating to transfer of prisoners to state hospital.

HB 252, by Representative Hopkins: AN ACT relating to city, county or urban county governments.

HB 253, by Representatives Denham and Donnermeyer: AN ACT relating to jailers' fees.

HCR 16, by Representatives Kidd and McGill: A RESOLUTION adjourning the House of Representatives in memory of Dr. Martin Luther King, Jr.

HR 17, by Representative B. Richardson: A RESOLUTION adopting permanent rules of the House of Representatives.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **HB 232, HB 235.**

Banking and Insurance: **HB 230.**

Business Organizations and Professions: **HB 231.**

Education: **HB 229, HB 237.**

Elections and Constitutional Amendments: **HB 233, HB 234.**

Judiciary-Statutes: **HB 236, SB 21.**

Public Utilities and Transportation: **HB 228.**

Senate Message

Announcing passage of **HCR 15.**

Report of Committees

The Committee on Elections and Constitutional Amendments reported **HB 79** with Committee Amendment attached thereto, and **HB 150** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 79, AN ACT relating to elections.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 118.125 is amended to read as follows:

(1) Except as provided in KRS 118.145 and 118.155, any person who is qualified under the provisions of KRS 116.055 to vote in any primary election for the candidates for nomination by the party at whose hands he seeks the nomination, shall have his name printed on the official ballot of his party for an office to which he is eligible in that primary, upon filing, with the proper officer at the proper time, a notification and declaration.

(2) The notification and declaration shall be in the form prescribed by the state board of elections. The declaration shall be subscribed and sworn to by the person making it, before an officer authorized to administer an oath.

(3) At the time of filing his notification and declaration, the candidate shall file therewith an affidavit of two (2) reputable electors who are members of the party to which the candidate belongs. The affidavit shall be in the form prescribed by the state board of elections.

(4) The notification and declaration and the accompanying affidavits may be on the same or separate sheets, but shall be filed together. When so filed with the proper officer, *and certified according to Section 2 of this act,* the officer shall have the candidate's name printed on the ballot according to the provisions of this chapter.

Section 2. KRS 118.165 is amended to read as follows:

(1) Candidates for offices to be voted for by the electors of one county or of a district less than one county, except members of congress and members of the general assembly, shall file their nomination papers with the county clerk of the county not less than fifty-five (55) days before the day fixed by law for holding the primary election. Candidates for offices to be voted for by the electors of more than one county, and for members of congress and members of the general assembly, shall file their nomination papers with the secretary of state not less than fifty-five (55) days before the day fixed by law for holding the primary election.

(2) The secretary of state or the county clerk shall examine the notification and declaration form of each candidate. The proper officer shall notify the candidate by registered mail within twenty-four hours of

filing that his papers have been certified. If there is an error the officer shall notify the candidate by registered mail within twenty-four hours of filing. Upon receipt of such notice, the candidate shall correct such error not later than seventy-two hours after the filing deadline.

The Committee Amendment to **HB 79** is as follows:

Amend printed copy of House Bill 79, page 3, after line 7, add the following:

"Section 3. KRS 118.255 is amended to read as follows:

(1) The county clerk and or Secretary of State receive a fee of *two dollars ($2.00)* [one dollar ($1.00)] for each notification and declaration and petition filed with him, to be paid by the candidate when the notification and declaration and petition is filed, and a fee of twenty-five cents (25¢) for each name published as provided in KRS 118.235, to be paid by the county.

(2) The county clerk and or Secretary of State shall pay the cost of mailing the certification of nomination and declaration petition from the fee collected from the candidate."

HB 150, AN ACT relating to judicial districts.

WHEREAS, the General Assembly has given due regard to the elements of territory, business and population involved in the division of the state into judicial districts; and

WHEREAS, with such due regard, the General Assembly has found the following facts to exist:

(1) That the entire population of the state as of the last preceding Federal census was 3,220,711 as of March 15, 1975.

(2) That upon the basis of such population, additional judicial districts may be established to those now existing, pursuant to Sections 128 and 132 of the Constitution.

(3) That it will be convenient and advantageous from the standpoint of territory, and will comply with the spirit and interest of the Constitution with respect to population and expedite the business in the counties involved, to create a new judicial district.

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Third Judicial District shall hereafter be composed of Christian County.

Section 2. The Fourth Judicial District shall hereafter be composed of Hopkins County.

Section 3. A new Judicial District is established to consist of the counties of Caldwell, Lyon and Trigg.

Section 4. The present circuit judge and commonwealth's attorney for the Third and Fourth Judicial Districts shall retain their offices for the terms for which they were elected for the district as it has been changed under this Act.

Section 5. The offices of circuit judge and commonwealth's attorney for the new judicial district established by this section are created.

Section 6. Until the regular election for circuit judge and commonwealth's attorney in 1981, these offices for the newly created district shall be filled as provided in Section 152 of the Constitution for offices in which there is a vacancy.

Section 7. At the regular election in 1981 and every six years thereafter there shall be elected a circuit judge and a commonwealth's attorney for the newly created judicial district.

Section 8. Whereas, due to the term of the court, an emergency is declared to exist, and this Act shall become effective April 1, 1976.

The Committee on Judiciary-Courts reported **HB 94** and **SB 69** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 94, AN ACT relating to attorney's fees.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 453.060 is amended to read as follows:

(1) If the successful party is represented by a licensed attorney and no jury is impaneled, the following attorney's fees shall be allowed:

(a) In the Court of Appeals:	
In equity cases,	$10.00
In common-law cases,	5.00
(b) In the circuit court:	
In equity cases,	5.00
In common-law cases,	2.50
(c) In all cases in the county court,	2.50
(d) In all cases in the quarterly court,	2.50

(2) A guardian ad litem or warning order attorney shall be allowed by the court a reasonable fee for his services, to be paid by the plaintiff and taxed as costs.

(3) In a county containing an urban-county form of government the attorney fees allowed by subsection (1)(b),(c) and (d) shall be taxed as costs at the termination of the action and the clerks of the various courts shall at the end of each month pay all sums collected as taxed attorney's fees during the month to the trustees of the County Law Library to be used by the trustees pursuant to Chapter 172.

SB 69, AN ACT relating to the judicial system.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 23 is created to read as follows:

The fiscal courts of each county and the governing body of an urban-county form of government shall continue to furnish to the circuit court clerks and the circuit courts the same space and facilities and the same financial support as were furnished by such fiscal courts prior to January 1, 1976.

Section 2. Whereas, the judicial reform amendment recently adopted by the people of Kentucky became effective January 1, 1976, and whereas there is a need to implement various stages of such amendment over a period of time, an emergency is declared to exist and this Act shall become effective upon its passage and approval by the governor.

The Committee on Judiciary-Statutes reported **HB 99, HB 143** with Committee Amendment attached thereto, **HB 179** with Committee Substitute attached thereto, **HB 188,** and **HB 91** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 99, AN ACT relating to termination of parental rights.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 199.600 is amended to read as follows:

(1) In a proceeding involving a neglected or abandoned child, as defined in KRS 199.011, the circuit court may terminate all parental rights of the parents of such child, and declare the child to be a ward of the state, and may vest the care, custody and control of the child in the department, or in any licensed child-caring or child-placing agency or institution, if facilities are available to receive the child, if it is pleaded and proved in a private hearing that the parents have abandoned or deserted the child, or have substantially or continuously or repeatedly neglected the child or refused to give the child parental care and protection, or that the child is neglected and that the parents have been adjudged mentally incompetent and such judgment has been in effect for not less than one year.

(2) If the circumstances described in subsection (1) of this section exist with respect to only one of the two legitimate parents, the parental rights of that parent may be terminated, in which case the child shall not be declared to be a ward of the state, unless with the voluntary consent of the other parent, or if one of the

two legitimate parents has willfully, substantially and continuously refused for a period of at least one year to give or pay any support, the parental rights of that parent may be terminated immediately by order of the court, in which case the child shall not be declared a ward of the state, unless with the voluntary consent of the other parent.

(3) In an action to terminate parental rights under this section the parents, if the child is legitimate, or if the child is born out of wedlock, the mother and the father if paternity is established in legal action or if an affidavit is filed stating that the affiant is father of the child, must be personally summoned; or where personal service cannot be made, must be constructively summoned as provided in the Rules of Civil Procedure.

(4) In the event the infant is made party defendant to the action, the boarding home or foster parent shall not be served with summons notwithstanding provisions of CR 4.04 (3).

(5) The court may be convened at any time wherever the judge thereof may be found within this district, irrespective of the regular term for the purpose of terminating parental rights under this section, and shall complete the same as soon as possible.

(6) Proceedings under this section may be instituted upon petition by the department, *any child-placing agency licensed by the department,* any probation officer, any state or local law enforcement officer, any county or Commonwealth's attorney or parent.

(7) In the event a parent who is a defendant in an action for involuntary termination of parental rights is for financial reasons unable to obtain legal representation, the court shall appoint an attorney for such person if defendant requests counsel. The court may appoint counsel for any defendant under this statute if, in the opinion of the court, justice will be served. Unless the attorney appointed receives a salary or fee from another source, he shall be paid a reasonable fee for his services which shall be taxed as costs not to exceed $150.

(8) Unless one or both parents object thereto in writing within ten days after an abortion results in a live birth, the live born person shall become an abandoned ward of the state and the mother and father of such person shall have no parental rights or obligations whatsoever as relates to the abandoned, the same as if parental rights had been terminated pursuant to the provisions of KRS Chapter 199.

HB 143, AN ACT relating to criminal prosecution.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 510 is created to read as follows:

As used in this Act, "complaining witness" means the alleged victim of the crime charged, the prosecution of which is subject to the provisions of this Act.

Section 2. A new section of KRS Chapter 510 is created to read as follows:

(1) In any prosecution under KRS 510.040 through 510.140, or for assault with intent to commit, attempt to commit, or conspiracy to commit a crime defined in any of these sections, reputation evidence, and evidence of specific instances of the complaining witness' prior sexual conduct or habits is not admissible by the defendant.

(2) Notwithstanding the prohibition contained in subsection (1) of this section, evidence of the complaining witness' prior sexual conduct or habits with the defendant or evidence directly pertaining to the act on which the prosecution is based, may be admitted at the trial if the relevancy of such evidence is determined in the following manner:

(a) A written motion shall be filed by the defendant with the court no later than two (2) weeks prior to the day of trial, or at such later time as the court may for good cause permit, stating that the defendant has an offer of relevant evidence of prior sexual conduct or habits of the complaining witness.

(b) A hearing on the motion shall be held in the judge's chambers. If, following the hearing, the court determines that the offered proof is relevant and that it is material to a fact in issue, and that its probative value outweighs its inflammatory or prejudicial nature, the court shall admit the offered proof, in whole or in part, in accordance with the applicable rules of evidence.

The Committee Amendment No. 1 to **HB 143** is as follows:

Amend printed copy of House Bill 143, page 2, line 2, the word "weeks" struck and replaced with the word "days".

HB 179, AN ACT relating to entry on land without consent.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 150.991 is created to read as follows:

Any person who enters upon the inclosed lands of another to shoot, hunt or fish without the oral or written consent of the owner or occupant shall be fined not less than fifteen dollars ($15.00) nor more than one hundred ($100).

The Committee Substitute for **HB 179** is as follows:

HB 179, AN ACT relating to hunting.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 150 is created to read as follows:

(1) Any person who enters upon the enclosed lands of another to shoot, hunt, or fish without the oral or written consent of the owner or occupant shall be fined not less than fifteen dollars ($15.00) nor more than one hundred dollars ($100.00).

(2) Any person who enters upon the enclosed lands of another to shoot or hunt with a rifle chambered for center fire cartridges without first obtaining the written consent of the owner or occupant shall be fined not less than fifteen dollars ($15.00) nor more than one hundred dollars ($100.00). This subsection shall not apply to unoccupied land.

Section 2. KRS 150.092 is amended to read as follows:

(1) Any conservation officer shall upon written complaint of the owner or occupant arrest any person who is violating *any provision of Section 1 of this Act* [KRS 150.991], if the officer is already on the land for the purpose of enforcing other provisions of this chapter. The officer is authorized to arrest on his own initiative for a violation of *any provision of Section 1 of this Act* [KRS 150.991], whether or not he is already on the land for the purpose of enforcing other provisions of this chapter. He is not required to make an arrest unless he is already so on the land.

(2) Nothing in this section shall be construed to limit the existing powers of peace officers.

HB 188, AN ACT relating to marriage.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 402.020 is amended to read as follows:

Marriage is prohibited and void:

(1) With an idiot or lunatic;

(2) Where there is a husband or wife living, from whom the person marrying has not been divorced;

(3) When not solemnized or contracted in the presence of an authorized person or society;

(4) When at the time of marriage, the person is under *sixteen (16) years of age or under* eighteen (18) years of age *but at least sixteen (16) years of age*, if the marriage is without the consent of the father, mother, guardian, or other person lawfully having charge of his or her person, provided, however, that in case of pregnancy the male and female, or either of them, under the ages herein specified may apply to a county judge for permission to marry, which application may be granted, in the discretion of the county judge. The court shall be allowed a fee of five dollars ($5.00) for hearing each such application.

HB 91, AN ACT relating to gifts to minors.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 385.011 is amended to read as follows:

(1) An "adult" is a person who has attained the age of *eighteen (18)* [twenty-one (21)] years.

(2) A "bank" includes every corporation authorized by law to do a banking business.

(3) A "broker" is a person lawfully engaged in the business of effecting transactions in securities for the account of others. The term includes a bank which effects such transactions. The term also includes a person lawfully engaged in buying and selling securities for his own account, through a broker or otherwise, as a part of a regular business.

(4) "Court" means the chancery division of the circuit court.

(5) The "custodian property" includes:

(a) all securities, life insurance policies, annuity contracts and money under the supervision of the same custodian for the same minor as a consequence of a gift or gifts made to the minor in a manner prescribed in KRS 385.011 to 385.101;

(b) the income from the custodial property; and

(c) the proceeds, immediate and remote, from the sale, exchange, conversion, investment, reinvestment, surrender or other disposition of such securities, money, life insurance policies, annuity contracts and income.

(6) A "custodian" is a person so designated in a manner prescribed in KRS 385.011 to 385.101; the term includes a successor custodian.

(7) A "financial institution" means a bank, trust company or savings and loan association authorized by law to do business in this state.

(8) A "guardian" of a minor means the general guardian, guardian, tutor or curator of his property or estate appointed or qualified by a court of this state or another state.

(9) An "issuer" is a person who places or authorizes the placing of his name on a security (other than as a transfer agent) to evidence that it represents a share, participation or other interest in his property or in an enterprise or to evidence his duty or undertaking to perform an obligation evidenced by the security, or who becomes responsible for or in place of any such person.

(10) A "legal representative" of a person is his executor or the administrator, general guardian, guardian, committee, conservator, tutor or curator of his property or estate.

(11) A "life insurance policy or annuity contract" means a life insurance policy or annuity contract issued by an insurance company authorized to do business in this state on the life of a minor to whom a gift of the policy or contract is made in the manner prescribed in KRS 385.011 to 385.101 or on the life of a member of the minor's family.

(12) A "member" of a "minor's family" means any of the minor's parents, grandparents, brothers, sisters, uncles and aunts, whether of the whole blood or the half blood, or by or through legal adoption.

(13) A "minor" is a person who has not attained the age of *eighteen (18)* [twenty-one (21)] years.

(14) A "security" includes any note, stock, treasury stock, bond, debenture, evidence of indebtedness, certificate of interest or participation in an oil, gas or mining title or lease in payments out of production under such a title or lease, collateral trust certificate, transferable share, voting trust certificate or, in general, any interest or instrument commonly known as a security, or any certificate of interest or participation in, any temporary or interim certificate, receipt or certificate of deposit for, or any warrant or right to subscribe to or purchase, any of the foregoing. The term does not include a security of which the donor is the issuer. A security is in "registered form" when it specifies a person entitled to it or to the rights it evidences and its transfer may be registered upon books maintained for that purpose by or on behalf of the issuer.

(15) A "transfer agent" is a person who acts as authenticating trustee, transfer agent, registrar or other agent for an issuer in the registration of transfers of its securities or in the issue of new securities or in the cancellation of surrendered securities.

(16) A "trust company" is a bank, or corporation authorized to exercise trust powers.

The Committee on Rules reported **HB 27** and **HB 88** have been posted for passage in Orders of the Day, January 14, 1976.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration.

Appropriations and Revenue: **HB 168.**

Elections and Constitutional Amendments: **HB 201.**

Labor and Industry: **HB 101, HB 104, HB 112.**

Banking and Insurance: **HB 227, HB 230.**

Health and Welfare: **HB 191, HB 194, HB 226, HB 184.**

Cities: **HB 30, HB 31, HB 32, HB 33, HB 34, HB 35, HB 36, HB 37, HB 38, HB 39, HB 40, HB 41, HB 42, HB 43, HB 44, HB 45, HB 46, HB 47, HB 48,** HB 49, **HB 50, HB 51, HB 52, HB 53, HB 54, HB 55, HB 56, HB 57, HB 59, HB 60, HB 61, HB 62, HB 63, HB 64, HB 174.**

Business Organizations and Professions: **HB 231.**

Report on Enrolled Bills

The Committee on Enrollment reported **HCR 15** had been examined and found correctly enrolled. **HCR 15** read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate.

HCR 15 delivered to the Senate, signed by President. Ordered delivered to the Governor.

Calendar

HB 77 and **HB 136** taken from the Calendar and ordered read at length for the second time. Representative B. Richardson moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Motions, Petitions and Communications

Representative B. Richardson moved that the rules be suspended for the purpose of acting upon a Resolution. Agreed.

Representative B. Richardson moved the adoption of the following **HR 17:**

HR 17, A RESOLUTION adopting permanent rules of the House of Representatives.

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Rule 1. Hours of Meeting. The House shall meet at times set by the Committee on Committees.

Rule 2. Quorum. A majority of the members elected to the House shall constitute a quorum. If a quorum is not present at the time fixed for a meeting of the House, five members may adjourn or recess from day to day or from time to time and fifteen members may order a call of the House and send for absent members.

Rule 3. Call of the House. Upon a call of the House, the Clerk shall call the roll. Absentees are then only noted, but no excuses shall be made until the full roll is called. The clerk shall then call the absentees again. Excuses will be heard at this time. The doors of the House Chamber shall then be closed and the absentees not excused by the House may be sent for and arrested by the Sergeant-at-Arms and the House shall determine upon what conditions they shall be discharged from arrest. Members who voluntarily appear shall be immediately admitted to the floor of the House and names returned upon the Journal as present unless the House otherwise directs. Excuses for leaves of absence must receive a consent approval of 2/3 of the members elected.

ORDER OF BUSINESS

Rule 4. Order of Business. The order of business shall be as follows:

1. Invocation.
2. Roll Call.
3. Reading and approval of the Journal.
4. Introduction and Reading of New Bills and Resolutions Introduced by Title and Sponsor.
5. Report of Reference of Bills to Committees.
6. Report of Committees.
7. First Reading of Bills.

8. Second Reading of Bills.
9. Motions, Petitions and Communications.
10. Orders of the Day.
11. Announcements.
12. Adjournment.

No more than thirty minutes shall be allotted to Motions, Petitions and Communications.

Rule 5. Unfinished Business. Unfinished business which was being considered upon adjournment shall have precedence in the class of business to which it properly belongs upon the next succeeding legislative day.

MOTIONS

Rule 6. Reading of Motions. When a motion has been made and seconded, it shall be stated by the Speaker, or, being in written form, it shall be read by the Clerk before debate, amendment or motion concerning it shall be in order.

Rule 7. Withdrawal of Motions. Every oral motion after it has been stated by the Speaker, and every written motion, bill, resolution or other paper, after it has been read by the Clerk, shall be the property and in the possession of the House and shall not be withdrawn without consent of the House. Every written motion, report or measure may be committed or recommitted at the pleasure of the House.

Rule 8. Order of Questions. All questions, whether in Committee of the Whole or in the House, when not privileged questions, shall be propounded in the order in which they were moved, except that in filing blanks the smallest sum and the most remote date shall be put first.

Rule 9. Precedence of Motions. When a question is under consideration, no motion shall be in order except:

1. To call the House when there is no quorum present.
2. To fix the time to which the House shall adjourn.
3. To adjourn.
4. To take recess.
5. To lay on the table.
6. For the previous question.
7. To limit or extend limits of debate.
8. To postpone to a fixed time.
9. To lay on the Clerk's Desk.
10. To refer or commit.
11. To amend.
12. To postpone indefinitely.

The above several motions shall have precedence in the order in which they are arranged and the first seven of them shall not be debatable.

A second motion to adjourn, to take a recess, to lay on the table, for the previous question, to limit or extend limits of debate, to postpone to a time certain, to lay on the Clerk's desk, to refer or commit or to postpone indefinitely shall not be in order on the same day, upon the same question, and at the same status unless other business intervenes; provided, however, that amendments may be made to the time to which it is proposed to adjourn, to take a recess or to postpone to a fixed time.

Rule 10. Motion to Adjourn. A motion to adjourn, to take a recess, or a motion to adjourn to a time certain, shall always be in order, except when a member is speaking, while a vote is being taken or when the Committee on Committees is reporting; subject, however, to the limitations set out in Rule 9. A motion to adjourn or a motion to adjourn to a time certain shall be taken by roll call vote.

Rule 11. Motion to Table. The adoption of the motion to table, under these rules, defeats the subject matter under consideration. The reconsideration of the motion to table shall require approval of a majority of the members elected.

Rule 12. Previous Question. When the previous question has been ordered, a vote shall be taken immediately upon the pending measure and such pending amendments as are in order. The effect of the previous question shall be to put an end to all debate; to prevent the offering of additional amendments and to bring the House to an immediate vote upon the measure and amendments aforesaid. The previous question may be ordered by a majority of the members elected. On the call of the roll, no member shall be allowed to speak more than three minutes to explain his vote and shall not speak at all if the question is not a debatable question. After the previous question has been ordered, and before the vote upon the main question, the opponents of the measure shall have ten minutes, and proponents of the measure shall have ten minutes.

Rule 13. Motion to Set the Limits on Debate. A motion to set a time limit for debate on a measure, in excess of that permitted under Rule 12, shall be in order unless the previous question shall have been ordered on the measure. The time limit set for debate under this rule shall be allotted by the Speaker evenly between the opponents of the measure and the proponents of the measure. Adoption of a motion under this rule does not prevent the offering of additional amendments.

Rule 14. Motion to Reconsider. A motion to reconsider a vote shall not be in order unless made by a member who voted upon the prevailing side of the question; nor shall such motion be in order unless made within two legislative days in which the House is in session next after the date the vote was taken; however, the motion to reconsider when coupled with the additional motion to lay that motion upon the table may be made by any member.

Rule 15. Motion to Lay on Clerk's Desk. The effect of the adoption of a motion to lay on the Clerk's desk under these rules is to place in charge of the Clerk the pending question and everything adhering to it. A motion laid on the Clerk's desk may be taken from the desk and proceeded with at any time in the same order as when laid on the Clerk's desk.

Rule 16. Motion to Strike Out Enacting Clause. A motion to amend by striking out the enacting words of a bill or resolution shall have precedence over a motion to amend; and, if adopted, shall have the same effect as though the bill or resolution were regularly voted upon and rejected.

Rule 17. Motion to Separate Part of a Measure. A motion to commit, recommit, or postpone a part of a measure so as to separate that part of the measure from the remainder shall not be in order.

Rule 18. Postponement of Measure. When a measure shall have been postponed indefinitely it shall not be in order again during the session.

Rule 19. Reading of Pending Papers. Any pending bill, resolution; motion or report shall be read by the Clerk upon the demand of any member, but it shall not again be read on the same day unless so ordered by the House.

Rule 20. Nominations. In all elections a previous nomination shall be made.

MEMBERS

Rule 21. Attendance of Members. No member shall absent himself from a session of the House without leave from the House. Written request for leave of absence may be obtained from the Clerk of the House and shall be submitted to the Speaker. The request shall state thereon the member's excuse for obtaining the leave. No excuse for leave of absence shall be heard from the floor.

Rule 22. Decorum of Members. No member shall designate another member by name.

Rule 23. Call to Order. If any member, in speech or otherwise, transgress the rules of order or decorum, he shall immediately be called to order by the chair and shall take his seat. The Clerk shall reduce the objectionable words to writing and read them to the House. After hearing a short explanation from the member called to order, or upon the withdrawal of the objectionable language, the Speaker may permit the member to proceed, or may compel silence upon him until the matter is disposed of. The ruling of the chair shall be subject to an appeal to the House. A member offending the House shall be liable to censure.

Rule 24. Debate. No member may speak more than once to the same subject until all members desiring to be heard have spoken, but nothing in this rule shall do away with the previous question if then in effect, nor permit debate on an undebatable motion.

No member shall speak more than thirty minutes in the aggregate on any question or measure, at the end of which period, or any portion thereof, the floor shall be returned to the Speaker.

Rule 25. Members Shall Vote at Seats. A member shall vote only when at his seat or visibly approaching it.

OFFICERS AND EMPLOYES

Rule 26. Duties of Speaker. The Speaker shall take the chair every day precisely at the hour fixed for the meeting of the House and on the appearance of a quorum, shall cause the Journal of the preceding day to be read, unless the reading of the same is dispensed with by the House.

The Speaker shall preserve decorum and order and, in the event of any disorder in the gallery or in the House Chamber, may cause the same to be cleared of any persons creating disturbances or disorders.

All writs, warrants, subpoenas or other processes shall be signed by the officer who may be presiding over the House when the paper is issued; and his signature shall be attested by the Clerk, when ordered by a majority of the members.

Rule 27. Appeal from Decision of Chair. The Speaker while presiding may speak to points of order in preference to members. He shall decide points of order and manner of procedure. If two or more members arise from their respective seats and address the chair, the Speaker shall determine who was first and recognize him.

Any decision made by the Speaker shall be subject to appeal to the House. Every such appeal shall be in writing and signed by at least two members. During the pendency of an appeal to the House from a decision of the chair, the Speaker shall vacate the chair and call the Speaker Pro Tempore to preside. When the Speaker Pro Tempore is presiding on an appeal to the House from a decision of the Chair, no motion or business shall be in order except the motion on appeal from the decision of the Chair, and that motion shall not be debatable.

Rule 28. Speaker Pro Tempore. The House shall elect a Speaker Pro Tempore. The Speaker Pro Tempore shall perform the duties of the Speaker when the Speaker is absent from the House or when empowered by the Speaker to perform the duties of the Chair.

Rule 29. Duties of Clerk. The Clerk shall have charge of all the clerical business of the House. She shall have charge of the Clerk's section of the House Chamber and shall see that no one is permitted therein except herself, those assisting her, and members.

The Clerk shall read to the House papers ordered to be read; call the roll and note and report the absentees when a call of the House is ordered; call the roll and note the answers of members when a question is taken by yeas and nays; assist the Speaker in taking the count when any vote of the House is taken; notify committees of their appointment and business referred to them; attest all writs, warrants and subpoenas issued by order of the House; keep a Calendar showing such bills as are entitled to their second reading each day, distinguishing between House and Senate bills; superintend the engrossing and enrolling of bills; certify to the passage of all bills and to the adoption of all joint and concurrent resolutions by the General Assembly; and make all reports to the Senate, unless otherwise ordered.

Rule 30. Journal of Proceedings. The Clerk shall cause to be kept the Journal of the proceedings of the House. The Clerk shall note upon the Journal all questions of order, together with the disposition of same, and the dates upon which all bills and resolutions were sent to committee and returned to the House. The House may correct errors in the Journal the day the Journal containing errors is presented to the House. No record which is in the hands of the Clerk and is required by law to be entered upon the Journal of the House shall be copied by any person until same shall have been entered upon the Journal and said Journal shall have been approved.

Half an hour before the time fixed for the meeting of the House each day, the Clerk or one of her assistants shall be present at the Clerk's desk with the Journal of the preceding session for inspection of any member of the House.

The Clerk shall transmit the Journal for each day as soon as it has been approved by the House to the Legislative Research Commission, which shall deliver it to the public printer. The Commission staff shall proofread and index the Journal upon return from the printer and make necessary typographical corrections.

Rule 31. Custody of Papers. The Clerk shall have custody of all records, papers and bills of the House and shall not allow them to be taken out of her possession without the leave of the House, unless to be delivered to the chairman of a committee to which they have been referred, or to the Legislative Research Commission, as specified in these Rules, and then she shall take a proper receipt therefor. She shall endorse on bills and papers brief notes of proceedings had thereon by the House and preserve the same in convenient files for reference.

Rule 32. Accounts of Expenditures. The Legislative Research Commission shall keep the accounts for pay and mileage of members, officers and attaches, and for printing and other contingent expenses of the House and Senate.

Rule 33. Printing of House Papers. The Legislative Research Commission shall have supervision and charge of all printing done for the House as certified by the Clerk and the public printer shall print only such documents and other matter as the Legislative Research Commission authorizes. The clerk shall report to the Speaker every failure to execute printing work correctly and promptly.

Rule 34. Duties of the Sergeant-at-Arms. It shall be the duty of the Sergeant-at-Arms and the Doorkeeper to exclude or remove all persons not entitled to the floor of the House. One hour before convening of the House each day the Sergeant-at-Arms shall announce in a loud, distinct voice: "All persons not entitled to the floor of the House under the rules thereof will now vacate the House Chamber." He shall then compel all persons who are not entitled to remain therein to leave the House Chambers and shall prohibit their entry until one hour after the House has adjourned.

Rule 35. Conduct of Employes. All the constitutional employes of the House, shall, one hour before the meeting of the House each day, report to the Clerk, who shall report to the Committee on Committees whether or not all of said employes are on duty. The Committee on Committees, whenever it deems it necessary, shall report to the House any dereliction of duty.

Rule 36. Other Employes. All other professional, clerical and other services required by the House or its committees shall be furnished by the Legislative Research Commission, upon the request of the Committee on Committees. Employes performing such services shall be under the supervision of the Committee on Committees.

No officer or employe of the House shall receive any fee, tip or compensation from any member and violation of this rule shall be ground for dismissal.

COMMITTEES

Rule 37. Committee on Committees. There shall be a Committee on Committees composed of the Speaker of the House, the Speaker Pro Tempore, the Majority Caucus Chairman, the Majority Floor Leader of the House, the Majority Party Whip, and the Minority Floor Leader of the House. The Speaker shall be Chairman of the Committee and the majority of said Committee shall have full power to act on all matters referred to said Committee, either by these rules or by the action of the House. All bills and resolutions, either joint or concurrent, shall upon their introduction, be automatically referred to the Committee on Committees who shall refer same to the proper Committee not later than the second day in which the House is in session after the date of introduction.

The Committee on Committees shall have supervision and control over all employes of the House, whether elected by the House or provided by the Legislative Research Commission, and the Committee on Committees shall see that they perform all of their duties to the House and the members thereof. The Committee on Committees is empowered to discharge any or all said employes and officers except the constitutional officers of the House. The Committee on Committees shall appoint the members of all standing and special committees and shall fill any vacancies thereon in accordance with Rule 39.

Rule 38. Standing Committees. The following shall be the standing committees of the House.

1. Agriculture and Natural Resources
2. Appropriations and Revenue
3. Banking and Insurance
4. Business Organizations and Professions
5. Cities
6. Counties and Special Districts
7. Education
8. Elections and Constitutional Amendments
9. Health and Welfare
10. Highways and Traffic Safety
11. Judiciary-Statutes
12. Judiciary-Courts
13. Labor and Industry
14. Public Utilities and Transportation
15. State Government

The standing committees of the House shall operate for the duration of a regular session and throughout any special session. On sine die adjournment of the General Assembly, the standing committees of the House shall be constituted subcommittees of the Legislative Research Commission pursuant to KRS Chapter 7.

Rule 39. Appointment of Committees. The Committee on Committees shall appoint the Chairman, Vice Chairman and the members of all standing and special committees and shall fill any vacancies thereon. A member of the Committee on Committees shall not serve as chairman of a standing committee. The Committee on Committees shall select members of each standing and special committee in proportion to the representation of each political party in the House. The Vice Chairman shall act in the absence of the Chairman. The Chairman of any committee may appoint subcommittees to conduct hearings or study any matters which have been referred to the committee.

Before the Committee on Committees shall appoint the members of standing and special committees the number of members on the committee to be appointed shall be announced to the House. At the same, the Committee on Committees shall announce the number of members of the committee to be appointed from the majority party and the number of members to be appointed from the minority party.

The Committee on Committees shall not appoint more than seventeen (17) members to any one standing committee. Every member of the House shall be appointed to at least one standing committee and no member shall be appointed to more than three standing committees.

In appointing the membership of standing committees, the Committee on Committees shall consider the predominant business interests or occupation of each member so that the private interests of a majority of a committee's members do not correspond to the jurisdiction of the standing committee.

Rule 40. Jurisdiction of Standing Committees. The Committee on Committees shall refer each bill to the Committee with control over that subject matter. All bills and resolutions on the same subject matter shall be referred to the same committee. The general jurisdiction of the several standing committees shall be:

1. Agriculture and Natural Resources: matters pertaining to crop, livestock, poultry and their marketing, disease control and warehousing; tobacco; stockyards; agricultural cooperatives and marketing associations; agriculture weights and measures; veterinarians; forestry; mining; fish and wildlife resources; soil and water conservation; flood control and water usage; drainage and irrigation; geology and water resources; waterways and dams; oil, gas and salt water wells; state and national parks; the state fair; county fairs.

2. Appropriations and Revenue: matters pertaining to the executive budget and other appropriations of state monies; the levying of state and local taxes, including school taxes; property tax rates and assessments; the state debt; revenue bond projects; veterans bonus; claims upon the treasury; accounting of state funds by local officers; audits for state purposes; budget and financial administration; payment, collection and refund of taxes.

3. Banking and Insurance: matters pertaining to banking, banks and trust companies; petty loan companies; building and loan associations; credit unions; investment companies; industrial loan corporations; securities; the blue sky law, mortgage guaranty insurance; assessment and cooperative insurance; fraternal benefit societies; hospital service corporations; burial associations; medical and dental service corporations; life, accident, indemnity and other forms of insurance; stock and mutual insurance companies; banking and

insurance aspects of the uniform commercial code; interest and usury; pawnbrokers; private credit; consumer credit; sale of checks; installment sales contracts; legal investments; principal and income.

4. Business Organizations and Professions: matters pertaining to professional licensing not assigned specifically to another committee; chambers of commerce; business development corporations; racing; prize fighting and wrestling; places of entertainment; laundry and dry cleaning; alcoholic beverage control; private corporations; cooperative corporations and marketing associations; religious, charitable and educational societies; non-profit corporations; professional service corporations; cemeteries; barbers and cosmetologists; professional engineers and land surveyors; architects; real estate brokers and salesmen; public accountants; watchmakers; detection of deception examiners; auctioneers; business schools; the business regulation aspects of the uniform commercial code; warehouses and warehousemen; partnerships, trade practices.

5. Cities: matters pertaining to the officers, organization, government and financing of city government; special purpose assessment and taxing districts within a city; incorporation and classification of cities; city revenue bond projects; the imposition of duties and costs on cities; city taxes and licenses; city indebtedness; compensation of city officers; metropolitan sewer districts; interlocal government cooperation; housing projects; urban renewal and redevelopment; city streets and sidewalks; sewers; annexation of territory; consolidation of local government services; forms of city government; city civil service; city finances and revenue, public works; police and fire departments and their retirement systems; municipal utilities and waterworks; parks and playgrounds; planning and zoning; acquisition of waterworks and water districts by cities; financing of municipal improvements; urban service districts; police court and city attorney; city libraries.

6. Counties and Special Districts: matters pertaining to the officers, organization, government and financing of county government; county imposed taxes and licenses; county and special district debt; the imposition of duties and costs on counties; special districts not assigned to another committee; the powers, duties and composition of fiscal court; compensation of county officers and employes; the offices of county judge, magistrates, county attorney, sheriff, constable, county police jailer, coroner, surveyor, county clerk, county employes civil service and retirement; planning and zoning; interlocal cooperation and consolidation of services; county roads; public road districts; fire protection districts; drainage districts and local flood control and water usage; issuance of bonds for county and special district projects; metropolitan sewer and sanitation districts; local air pollution control districts; county and county law libraries; library districts.

7. Education: matters pertaining to public primary, secondary and higher education; the state board of education; the state department of education; the powers and duties of local boards of education; conduct of schools; attendance; state support of education; the operation of school districts; teachers' qualifications and tenure; the school curriculum; teachers' retirement; school employes; pupil transportation; school property and buildings; vocational education and rehabilitation; state universities and colleges; community colleges; municipal universities and colleges; regional education; education of the physically handicapped; educational television.

8. Election and Constitutional Amendments: matters pertaining to the proposing of constitutional amendments and the calling of a constitutional convention; ratification of amendments to the United States Constitution; legislative and congressional districts; the election of officers to state, local and school board positions; election commissioners, officer and precincts; qualifications, registration and purgation of voters; conduct of regular elections; primary elections; presidential and congressional elections; special elections to fill vacancies; contest of elections; corrupt practices and election financing; election offenses and prosecutions; voting machines; absent ballots.

9. Health and Welfare: matters pertaining to health and welfare in cities; fire prevention and protection; support of dependents; probation and parole; garbage and refuse disposal; public assistance; corrections; penitentiaries; child welfare; adoptions; mothers aid and assistance to children; children's homes, incompetents; poor persons and poor houses; confederate pensions; aid to needy blind; commitment and care of children; mental health; health, medical and dental scholarships; local health units and officers; vital statistics; communicable diseases; tuberculosis hospitals; hospitals, clinics and personal care homes; foods, drugs and poisons; hotel, restaurants and trailer park regulations; sanitation plants; sanitation districts; frozen food locker plants; alcoholism; water pollution; air pollution; physicians, osteopaths and podiatrists; chiropractors; dentists and dental specialists; registered nurses and practical nurses; pharmacists; embalmers and funeral directors; clinical psychologists; optometrists; opthalmic dispensers; physical therapists.

10. Highways and Traffic Safety: matters pertaining to the construction and maintenance of the state highway system; the department of highways; state aid for local roads and streets; the state police; the federal highway safety law; turnpike authority; state and federal highways; limited-access facilities; use of road bond monies; bill boards; junkyards; highway beautification; bridges, tunnels and ferries; traffic regulations; vehicle equipment and storage; driver training schools.

11. Judiciary-Statutes: matters pertaining to contracts; debtor-creditor relations; ownership and conveyance of property; administration of trusts and estates of persons under disability; descent, wills and administration of decedents' estates; domestic relations; support of dependents; statutory actions and

limitations; eminent domain; arbitration; summary proceedings; declaratory judgments; habeas corpus; witnesses; evidence; legal notices; crimes and punishments; construction of statutes; civil and criminal procedure; civil rights.

12. Judiciary-Courts: matters pertaining to the Supreme Court, District Courts, the Court of Appeals, Circuit Courts, County and Probate Courts, Quarterly Courts, Justices of the Peace Courts, and Police Courts; jurisdiction, rules, terms, judges, commissioners, selections, districts, qualifications, compensation and retirement; clerk of courts; juries; attorneys; commissioners and receivers; court reports; and juvenile courts.

13. Labor and Industry: matters pertaining to commerce not specifically assigned to another committee; industrial financing and development; labor unions; collective bargaining; liquefied petroleum gas and other flammable liquids; hotels; electricians; plumbers and plumbing; wages and hours; garnishments; safety and health of employes; child labor; employment agencies; apprenticeship; unemployment compensation; workmen's compensation; consumer protection; industrial weights and measures.

14. Public Utilities and Transportation: matters pertaining to privately owned public utilities; rates, permits, certification of convenience and necessity; water district rates; utilities in cities; public utility cooperatives; airports and aviation; boats and boating; licensing of motor vehicles; operators and trailers; financial responsibility law; nonresident motorists; motor vehicle sales; railroad rates, service, and operating regulations; telephone companies and cooperatives; electric and gas utilities and cooperatives; oil and gas transmission companies; motor carriers.

15. State Government: matters pertaining to the sovereignty and jurisdiction of the Commonwealth; the general assembly, its committees, officers and service agencies; redistricting; the governor; the lieutenant governor; intergovernmental cooperation; relations with the federal government; administrative organization; administrative regulations; statutory administrative agencies; department of law; secretary of state; state personnel; state retirement systems; military affairs and civil defense; public property and public printing; public officers, their terms, appointments, fees, compensation, removal, oaths and bonds; public information; state and regional planning; the arts; the libraries; archives and records; public corporations; Commonwealth attorney; circuit clerk.

Rule 41. Rules and Committee. There shall be a Rules Committee composed of the Speaker of the House, the Speaker Pro Tempore, the Majority Floor Leader, the Majority Caucus Chairman, the Majority Party Whip, the Minority Floor Leader, the Minority Caucus Chairman, the Minority Party Whip, and not less than seven nor more than nine members appointed by the Committee on Committees. All bills and resolutions having been reported out of the committee to which referred and having received their second reading shall be referred to the Rules Committee. The Rules Committee may refer any bill or resolution before it back to a standing committee. Provided, however, that such recommitment shall be accompanied by an explanation of the reason therefor, and that no bill or resolution shall be referred back by the Rules Committee on more than one occasion. All meetings of the Rules Committee shall be open to members of the House and to members of the Capitol Press Corps only. No electronic devices of any nature including cameras and recording devices shall be allowed in the committee room or to be used therein by any person while the Rules Committee is in session. No bill may be kept in Rules Committee for longer than five (5) legislative days. Within that time each bill must be reported to the floor or referred back to a standing committee.

The Majority Floor Leader shall while the Rules Committee is in session call bills and resolutions and shall call the same for consideration by the Rules Committee. A bill or resolution may be placed for consideration in the first order of business at the next regular Rules Committee meeting by a majority of the membership voting for such consideration.

Each member shall be given an opportunity upon request to appear before the Rules Committee when a bill of which he is a sponsor or co-sponsor is under consideration including the subsequent vote thereon. No measure shall be posted in the Orders of the Day for final passage except by order of the Rules Committee unless otherwise ordered posted for the next succeeding legislative day by a majority of the members voting. The Rules Committee shall arrange the Orders of the Day so that all measures shall appear thereon for the consideration of the House, but the Rules Committee may not place in the Orders of the Day any bill or other measure in the possession of a standing or special committee of the House. The Rules Committee, prior to each day's session, shall post a notice in a regular place in the House Chamber listing the bills to be considered that day in the Orders of the Day. Should the House not complete any day's Orders of the Day, the bills and resolutions remaining unconsidered shall go to the top of the Orders of the Day on the next day that Orders of the Day are considered.

The Speaker of the House shall act as Chairman of the Rules Committee. The Majority Floor Leader of the House shall act for the Rules Committee in calling from the Orders of the Day any bills or resolutions in the order he deems proper and shall be recognized by the Speaker for said purpose during all times that the Rules Committee is in charge of posting the Orders of the Day. The Speaker Pro Tempore shall act as chairman in the absence of the Speaker.

Rule 42. Enrollment Committee. The Committee on Committees shall appoint an Enrollment Committee of not more than seven members. The Enrollment Committee shall be responsible for the engrossment and enrollment of bills and resolutions under the Rules of this House.

Rule 43. Committee on Conference. When a House bill has been amended in the Senate and the House refuses to concur in said amendment, or when a Senate bill has been amended in the House and the Senate refuses to concur in said amendment and when neither will recede from such action, the Committee on Committees shall appoint a Committee on Conference to meet a like committee from the Senate. The Committee on Conference shall confer with the Senate Committee and report back to the House within a reasonable time, in the same manner as reports are made for House bills, provided that the amendment as agreed upon shall pertain to the same subject matter as the original bill referred to the Committee on Conference. The conference report shall be voted upon, and, if adopted the bill shall immediately be put upon its final passage.

Rule 44. Meetings of Committees. No committee except the Committee on Committees, the Committee on Enrollment and a Committee on Conference between the House and the Senate shall sit while the House is in session, unless by consent of the House. The Committee on Committees and Committee on Enrollment may report at any time except during roll call or while a vote is being taken.

The Committee on Committees, in conference with committee chairmen, shall schedule a definite time and place for the regular weekly meetings of each committee, such schedule to be posted in the House Chamber and published in the Legislative Record. A committee shall meet at the regular weekly scheduled time and place so long as business is pending before the committee. Nothing herein shall prevent the Chairman or a majority of any committee from calling a special meeting in addition to those regularly scheduled.

The Chairman shall keep a record of the attendance of members at meetings, which record shall be filed with the Clerk.

The Director of the Legislative Research Commission, under the direction of the Committee on Committees, shall assign a secretary to each committee and provide any professional, clerical or other employes required by any committee.

The Committee on Committees shall meet on call of the Speaker or on call of a majority of the members of the Committee on Committees.

Rule 45. Committee Reports. No bill or resolution shall be considered by the House except on report of committee. Upon the call of standing committees, the Clerk or the Chairman or ranking member of the committee may report the bill in the following manner:

"With the expression of opinion that the same should pass," or

"With the expression of opinion that the same should pass, with the committee amendment attached thereto," or

"With the expression of opinion that the same should pass, with the committee substitute attached thereto," or

"With the expression of opinion that the same should not pass."

Rule 46. Majority and Minority Reports. It shall require a majority of the committee membership to report a bill. Those members of the committee voting to report a bill must sign the committee report and the committee report shall only be signed in the committee room and while the committee is in session.

A committee report may be accompanied by a minority report, signed by those members who have dissented from the committee's report, and it shall be in order to move the adoption of the minority report as a substitute for the committee's report when the committee offers its report. It shall require a majority of the members elected to adopt the minority report. The Committee's report shall always be read before the minority report is read.

Rule 47. Failure to Report. Whenever a committee fails or refuses to report within a reasonable time a bill submitted to it, any member may by filing with the Clerk a written request signed by twenty-five or more members, call the same up for consideration on the next succeeding legislative day after the filing of said request. If a majority of the members elected to the House concur therein, the bill shall be considered as though it had been regularly reported.

Rule 48. Procedure in Committee. The rules of procedure in the House shall be observed in committee insofar as the same are applicable. The committee chairman, or the committee by majority vote in a regularly called meeting, shall post at least three calendar days prior to their consideration the bills and resolutions to be considered by the committee at its next meeting provided that no bill or resolution shall be posted by the chairman or the committee by a majority vote unless and until a request for posting form has been filed with the committee chairman or secretary and approved as containing satisfactory information by the committee chairman. No measures shall be considered except those posted. A list of the measures to be considered shall be filed with the Clerk at least three calendar days prior to the meeting.

BILLS AND RESOLUTIONS

Rule 49. Form of Bills. All bills introduced shall be typewritten on the Automated Legal Text Entry and Revision System of the Legislative Research Commission, and none otherwise prepared shall be accepted for introduction. Bills shall be offered as one original and three distinctly legible copies. Identical bills for introduction in the other chamber may be exact reproductions of original bill provided one copy is authenticated by the Director of the Legislative Research Commission as the original to be introduced in the other chamber. The original shall be the official bill, and shall be retained by the Clerk for the use of the House until engrossed and sent to the Senate. One copy shall be used by committees; one copy shall be for the use of the press and shall be given to a person designated by the press club; and one copy shall be given to the Legislative Research Commission. Each copy shall be backed with a protective cover, as provided for this purpose by the Legislative Research Commission. The title of the bill, or a portion thereof, and the signature of the member introducing the bill shall be placed on each cover.

In all bills, as introduced and as printed, which seek to amend existing sections of the Kentucky Revised Statutes, any new matter contained therein shall be underscored; and when an amendment proposes the omission or elimination of matter in an existing law, such omission or elimination shall be indicated on the typewritten bill and on the printed bill by placing the material proposed to be eliminated in brackets. The Clerk shall refer to the Legislative Research Commission any bills offered for introduction not conforming with the Automated Legal Text Entry and Revision System method or preparation, or with this format for revision as to form. The Enrolling Clerk in enrolling a bill which contains deleted material appearing in brackets shall strike over such deleted matter.

Rule 50. Introduction of Bills. Bills and resolutions may be introduced by filing them in the Clerk's office at any time that her office is open. Bills and resolutions introduced by filing them in the Clerk's office after the House has concluded Item 4, in Rule 4, Order of Business, shall be considered as having been introduced the next succeeding legislative day. The Clerk shall number bills in the order received, record their introduction, and transmit a copy immediately to the Committee on Committees for reference to committee. No bill or resolution having the force of law, shall be introduced during the last ten (10) legislative days of the session. The last two legislative days shall be reserved by the House exclusively for the business of concurring in amended House bills.

Rule 51. Fiscal Note Required. A sponsor of a measure may at any time prior to the filing of a request for posting form require a fiscal analysis to be made by the Legislative Research Commission upon the same and a fiscal note attached thereto.

The chairman of the committee to which the measure has been referred may, at any time after a request for posting form is filed with the committee by the sponsor, determine that a fiscal analysis is required on any measure not carrying a fiscal note. The chairman upon such determination shall cause a fiscal analysis to be made by the Legislative Research Commission and a fiscal note attached prior to posting the measure for consideration.

After posting the measure a majority of the committee may determine that a fiscal analysis is required on any measure not already carrying a fiscal note and shall direct the same to be accomplished and fiscal note attached with all dispatch. A committee may consider any measure on the date for which it is posted even if it is determined by the committee on that date that a fiscal analysis is required, however, no final action shall be taken by the committee upon said measure until a fiscal note is presented to the committee and attached to the measure.

Any member proposing to amend from the floor a bill or resolution which carries a fiscal note or if the proposed amendment itself carries a fiscal implication, the member proposing the amendment shall cause a fiscal analysis of the amendment to be made and a fiscal note attached to the proposed amendment at the time of introduction. In the event an amendment is introduced without a fiscal note, any member may raise the question of fiscal implication to the amendment by a motion and by majority vote require a fiscal analysis to be made and a fiscal note attached to the amendment. If a fiscal analysis and note is required by the membership, action on the bill or resolution to be amended along with the proposed amendment shall be passed over in the Orders of the Day but retained in the Orders of the Day. A fiscal note required by the membership shall be filed and attached to the amendment prior to the convening of the session of the next legislative day. In the event it is impossible to complete the analysis and prepare a fiscal note before the convening of the session on the next legislative day, the Director of the Legislative Research Commission shall so advise the membership by letter and state a time in which the same can be completed and filed with the House.

If the Director of the Legislative Research Commission certifies that the fiscal note cannot be completed within the prescribed time, the amendment shall not be in order unless the members, by majority vote, determine either: (1) act on the amendment and the bill or resolution without the benefit of the fiscal note, or to (2) pass over the bill or resolution in the Orders of the Day and allow it to be retained in the Orders of the Day until the fiscal note is filed.

Rule 52. Reference of Bills. The Committee on Committees shall refer all bills to the proper standing committee not later than the second day in which the House is in session after the date of introduction. When a House bill has been amended in the Senate and has been returned to the House for concurrence in the amendment, it may be referred to a committee in the same manner as original bills are referred. Bills originating in and passed by the Senate when reported to the House shall be referred to the Committee on Committees and shall take the same course as other bills.

Rule 53. Printing of Bills. Upon receipt of a bill, the Legislative Research Commission shall examine the form of the bill to ensure that it is free from errors of form or typography and has been assigned the proper KRS section or chapter numbers. If a formal change is necessary the Commission shall request the sponsor of the bill to sign a form approving the specified changes. If a bill is found to be correct, or corrections have been approved, the Commission shall authorize its printing.

The Legislative Research Commission shall have printed at least two hundred copies of each bill or resolution carrying the force and effect of law introduced in the House and of each bill or resolution carrying the force and effect of law acted on by the Senate and reported to the House. Bills shall be printed in the order in which they are introduced and shall be distributed to members immediately upon receipt from the printer.

Rule 54. Readings of Bills. If a bill be reported with the expression of opinion that it should not pass a vote may then be taken on whether it shall be read at length and be placed on the Calendar, if a majority of the members elected to the House shall concur therein. When reported favorably by the committee, the bill shall then be given its first reading at length and shall be placed by the Clerk upon the Calendar to be kept by him, and shall then be entitled to its second reading the next succeeding legislative day.

Every bill shall be read at length on three different legislative days; but the second and third readings thereof at length may be dispensed with by a majority of all the members elected to the House and the bill read by its title.

Rule 55. Calendar; Consent Calendar. (1) In order to reduce the time required for final passage of bills posted in the Orders of the Day, a consent procedure for the consideration of uncontested bills shall be established and designated as follows:

(a) The Clerk shall keep a Regular Calendar and a Consent Calendar for each legislative day showing the bills receiving their second reading.

(b) The Clerk shall also keep a Regular Orders and a Consent Orders showing bills posted for final passage by the Rules Committee.

(2) Bills reported by a Standing Committee with a regular "should pass" or "should pass with committee amendment/substitute attached" recommendation shall be shown in the Regular Calendar on the day on which they are entitled to a second reading.

(3) A Standing Committee may at the time of favorably reporting any House or Senate Bill, recommend that it be placed in the Consent Calendar provided:

(a) The primary sponsor has so requested when it is a House Bill, and

(b) The bill receives a "should pass" or "should pass with committee amendment/substitute attached" recommendation from such committee by a unanimous vote of the members present.

Any House or Senate Bill thus reported shall be first placed in the Consent Calendar on the day on which it is entitled to a second reading and shall continue to be shown in said Calendar until taken therefrom by the Rules Committee and posted in the Consent Orders. Bills receiving a second reading should be so designated to distinguish them from bills which have already received their second reading.

(4) A certificate shall be attached to each bill recommended for the Consent Calendar showing the request of the sponsor of any House Bill, and the unanimous recommendation of the members present signed by the Chairman.

(5) After a sufficient number of bills have accumulated in the Consent Calendar, the Rules Committee may post any or all of said bills to the Consent Orders for a day certain. On that day certain the Consent Orders shall be called before the Regular Orders.

(6) Upon the call of the Consent Orders each bill in said Orders shall be given a third reading by title only. The Speaker shall then allow a reasonable time for questions from the floor and any explanation necessary by the sponsor or committee chairman. Consent Order bills may not be amended from the floor.

(7) The Clerk shall attach a roll call to each bill in the Consent Calendar and any member may at any time prior to passage of the Consent Orders record with the Clerk his "nay" or "pass" vote on any bill within the Consent Calendar or Consent Orders.

(8) The vote on the Consent Orders shall be taken by use of the Electrical Voting System.

(9) Upon the written petition of any five members objecting to the placement or retention of any bill in the Consent Calendar or Consent Orders, such bill shall cease to be so considered and shall be placed in the Regular Calendar or Regular Orders as provided in these rules.

Rule 56. Orders of the Day. When a bill has had its second reading it shall be placed in the Orders of the Day, or be recommitted, and when next reached in the House it shall be ready for recommitment, or to be read a third time and placed upon its passage, and the Speaker shall so announce to the House.

A bill may be recommitted or amended in accordance with these rules at any time before its passage. Bills shall be placed in the Orders of the Day in the order in which they have been given their second reading, and shall be taken therefrom in accordance with Rule 41. When a House bill is in the Orders of the Day, it shall be in order on motion of the author to substitute for it an identical Senate bill which is in the Calendar of the House.

No bill shall be taken from the Orders of the Day unless it shall have been printed and previously distributed to members.

Rule 57. Final Passage. When a House bill has been amended in the Senate and the House has concurred in the amendment, the bill as amended shall immediately be placed upon its passage.

Rule 58. Amendments to Bills. All amendments offered shall be on sheets with a proper heading printed in black, furnished by the Clerk, and shall bear the signature of the members offering the same. All amendments shall give the proper page and line of the printed bill. Three copies of each amendment shall be introduced and the Clerk shall forward one copy to the Legislative Research Commission. No amendment shall be in order that is not germane to the matter under consideration and unless it shall have been printed and previously distributed by the Clerk to members at least one legislative day prior to consideration of the bill or resolution and unless it complies with Rule 51 relative to Fiscal Analysis; and the Speaker, when the question is raised, shall rule as to the admissibility of the proposed amendment, subject to appear to the House.

Rule 59. Engrossment of Bills. Every House bill and joint resolution, together with the amendments thereto, which has been passed by the House and not subject to further amendment or motion, shall be engrossed by the Clerk and so certified by him endorsing thereon the day of passage or adoption. The bill shall be delivered to the Senate in open session by the Clerk or someone designated by him, and Senate concurrence asked therein. A like procedure shall be observed toward Senate bills.

When engrossing a bill, the Clerk may incorporate amendments by means of typing only. When an amendment strikes out any part of the original it shall be indicated in the engrossed copy by one parallel line over the part to be stricken out, in such a way as not to render illegible the original words.

Rule 60. Enrollment of Bills. All House bills and resolutions which have passed both the Senate and the House shall be delivered by the House Clerk to the Enrolling Clerk, taking a receipt therefor, in the order in which passed. The House Clerk shall keep the number and title of all bills and joint and concurrent resolutions carrying the force and effect of law, passed by the House of Representatives and the Senate in a suitable record book attesting the fact and date of passage.

In the event a bill which originates in the House is amended by the Senate and the House concurs in the amendments proposed and adopted by the Senate, the Clerk of the House shall engross said amendments in the original copy of the House bill, attesting the same, before delivering the bill to the Enrolling Clerk of the House. The Enrolling Clerk shall then cause the original bill as attested by the Chief Clerk and the safety copy of the bill as delivered from the Senate to conform to each other by typing in indelible typewriter ink or by writing in red ink the amendments engrossed in the original bill in the safety copy. In cases of extreme emergency and during the last three days prior to sine die adjournment, where no correct printed copy is available, the Enrolling Clerk may enroll such bill or resolution by typing the same on safety paper or by enrolling the same in long-hand.

The original bill or resolution and a printed copy upon safety paper in the exact form as finally passed shall be certified to by the Enrolling Clerk and delivered to the Committee on Enrollment. The Committee on Enrollment and the Enrolling Clerk shall jointly compare the original bill with the enrolled copy, and if the enrollment is ascertained to be correctly done, the Committee shall report the same to the House. If any bill or resolution is found not correctly enrolled, it shall be returned to the Enrolling Clerk to be properly enrolled and delivered to the Committee on Enrollment as is first provided herein.

Rule 61. Signing of Bills. The Enrolling Clerk of the House shall deliver the original and enrolled copies of House bills and resolutions signed by the Speaker to the Chairman of the Enrollment Committee of the Senate for presentation to the President of the Senate for his signature. When signed by the President of the Senate, the enrolled bill or resolution and the original copy thereof shall be returned by the Enrolling Clerk to the Clerk of the House who shall present the enrolled bill or resolution to the Governor for his approval and take his receipt for same.

Rule 62. Resolutions. Resolutions having the force and effect of law shall be treated and considered as bills in all respects under these rules. However, simple resolutions expressing the will of the House and all resolutions recommending a study by an interim committee may be considered for adoption after receiving a recommendation from a standing committee and being posted for passage by the Rules Committee. All resolutions recommending a study by an interim committee shall include an approximate cost of the proposed study.

Rule 63. Legislative Citations. For the purpose of extending the commendations, condolences or congratulations of the General Assembly to a particular person, or to recognize a particular event or occasion, there may be issued a "Legislative Citation." Citations may not be used for procedural matters, matters of a controversial or partisan political nature, nor in place of resolutions memorializing the U.S. Congress, but only when appropriate to express the feeling of the House or of the General Assembly with reference to a person or event.

Each such citation shall be prepared in single copy on an artistically designed form, suitable for framing, shall bear the signature of the sponsor and the name of the person or event cited, and upon adoption shall be spread at length upon the Journal. Citations shall be considered in the order of business "Motions, Petitions and Communications," and without objection shall be adopted *en bloc* after reading individually by title. Citations shall be offered for consideration through presentation to the Clerk.

A resolution shall not be accepted for introduction if offered in lieu of a Legislative Citation.

VOTING

Rule 64. Roll Call. Any member, with a second, may demand a roll call on any matter pending before the House. The names of members shall be arranged alphabetically when taking a yea and nay vote.

Any time these rules require a roll-call vote, or a yea and a nay vote of the members, such vote may be taken by either a voice roll call or the electrical voting system, as ordered by the Speaker.

The Speaker, before each roll-call vote is taken, shall instruct the Clerk to sound the warning chimes installed in that part of the Capitol assigned to the use of the House. No roll-call vote shall be started until two minutes after the warning chimes have been sounded.

Rule 65. Electrical Voting System. When the House is ready to vote upon any question requiring a roll call, and the vote is to be taken by the electrical roll call system, the Speaker shall announce:

"The question is on the passage of (designating the matter to be voted upon). All in favor of such question shall vote(yea,' and all opposed shall vote)nay.' The House roll is now open for voting."

The Speaker shall recognize any member who rises for the purpose of explaining his vote. No member shall be allowed to speak more than three minutes to explain his vote, and shall not speak at all if the question is not a debatable question.

When sufficient time has been allowed the members to vote and to explain their vote, the Speaker shall announce: "Have all voted?" "Does anyone desire to change his vote?" And after sufficient pause shall lock the roll call system and instruct the clerk to record the vote. It shall be the responsibility of each member to determine the accuracy of his individual vote as registered opposite his name on the electrical roll call board and advise the Speaker of any desired change before the roll call system is locked.

The clerk shall immediately start the recording equipment, and when completely recorded, shall present the result to the Speaker who shall announce same to the House. The Clerk shall enter upon the Journal the result in the manner provided by the rules of the House.

At the same time the vote is recorded by the electric recording equipment an original and five duplicate roll call sheets shall be made showing the vote, two of which duplicates shall be for use of the press, and one copy shall be furnished to the Legislative Research Commission.

Rule 66. Voting for Others Prohibited. No member shall vote for another member, nor shall any person not a member cast a vote for a member. In addition to such penalties as may be prescribed by law, any member who shall vote or attempt to vote for another member may be punished in such manner as the House may determine. If a person not a member shall vote or attempt to vote for any member he shall be barred from the floor of the House for the remainder of the session and may be further punished in such manner as the House may deem proper, in addition to such punishment as may be prescribed by law.

Rule 67. Pairing. All pairs announced in the House shall be entered on the Journal.

Rule 68. Adjournment Extended During Roll Call. When the roll is being called in taking a yea and nay vote, and the hour of an adjournment arrives, the same shall stand extended until after said yea and nay vote has been completed and the result announced.

PRIVILEGE OF THE FLOOR

Rule 69. Persons Entitled to the Floor. No person shall be permitted upon the floor of the House when in session and two hours before and after the House is in session except the present members of the General Assembly and all officers and employes of the General Assembly. Bona fide newspaper correspondents designated in writing by the daily newspapers or press service they represent, shall be admitted to the floor when recommended by the Committee on Committees and shall be governed by the rules of the House and assigned by the Committee on Committees to a press section specifically set aside for them.

A special section of the gallery shall be reserved for the families and guests of members, who shall be admitted upon presentation of an identification card. Other persons shall be admitted to that part of the galleries not reserved for members' families. Members may submit the names of guests to the Clerk, who shall read the names to the House. Members shall not introduce guests from the floor.

Rule 70. Lobbying in the House Chambers. No person shall engage in lobbying for or against any measure while the House is in session, or in recess, in any of the corridors or passages or in any of the rooms in that part of the Capitol assigned to the use of the House, and no registered lobbyist shall enter that part of the Capitol while the House is in session. This rule shall not be construed to prohibit the use of the corridors or passages in going to and from the House galleries by any person.

Rule 71. Restrictions. No article, booklet, pamphlet or any other printed material shall be placed upon the desk of any member unless said article, booklet, pamphlet or other printed matter contains the signature of the author, or the party interested in the distribution thereof is clearly identified. All such articles, booklets, pamphlets or any other printed material shall be delivered to the message room and shall upon direction of the clerk after inspection, be placed in the members' bin. The Sergeant-at-Arms shall be charged with the duty of seeing that no individual other than employees of the House under the direction of the Clerk or House members shall cause materials of any nature to be distributed in the House Chamber. Any material found so distributed by unauthorized individuals shall be collected from the members' desks and treated as litter.

RULES

Rule 72. Mason's Manual. In the absence of a specific rule of the House, *Mason's Manual of Legislative Procedure* shall govern the proceedings, except that in all cases where general parliamentary law provides for a rule of two-thirds, it shall mean in this House a majority of all members elected thereto.

Rule 73. Change of Rules. The rules of the House, after their adoption shall not be altered, changed, amended, suspended or interrupted, unless the same be done by a majority of the members elected to the House. Whenever a rule is suspended, no measure shall be considered under suspension except the measure or measures in whose favor the suspension was invoked, and only for that day.

On the roll call the vote was yeas 85-Ackerson, B. Adams, A. S. Adams, J. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blandford, Blume, Blythe, Boatwright, Brinkley, Brown, Bruce, Burnette, Carpenter, Clapp, Clarke, Cooper, Craddock, Crupper, Cyrus, DeFalaise, DeMarcus, Denham, Deskins, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Floyd, Foster, Gay, Givhan, Gray, Guenthner, Hancock, Head, Hughes, Imes, Isler, Jones, Kenton, Kidd, King, Kleier, LeMaster, Lindsay, Little, Mann, Mason, May, McBee, McBride, McGill, Morgan, Morris, Muncy, Nett, O'Brien, Overstreet, Pearl, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Robinson, Romines, Sale, Schmidt, Siemens, Siler, Stephens, Tobin, Vincent, Wells, White, Wible, Wooden, Yates. Nays 5-W. Allen, Hardwick, Holbrook, Holloway, Hopkins.

HR 17 was adopted.

Representative B. Richardson moved that the vote by which **HR 17** was adopted be reconsidered and said motion be postponed indefinitely. Agreed.

Representative Kidd moved that the rules be suspended for the purpose of acting upon a Resolution. Agreed.

Representative Kidd moved the adoption of the following **HR 16:**

HR 16, A RESOLUTION adjourning the House of Representatives in memory of Dr. Martin Luther King, Jr.

WHEREAS, January 15 is the anniversary of the birth of the late Dr. Martin Luther King, Jr.; and

WHEREAS, during his life, Dr. King was a leader in the battle for peaceful and lawful advancement of civil rights in the United States; and

WHEREAS, January 15 has been established as Martin Luther King Day in Kentucky;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That when the House of Representatives adjourns this day, January 14, 1976, it does so in honor and memory of the late Dr. Martin Luther King, Jr.

HR 16 was adopted by voice vote.

Senate Message

Announcing passage of **SB 33.**

Representative Givhan moved that the rules be suspended for the purpose of posting a bill for Committee consideration. Agreed.

The following Bills have been posted for Committee consideration:

Judiciary-Statutes: **HB 144, HB 199.**

Representative Tobin moved that the rules be suspended for a roll call to be taken to show co-sponsors of **HR 13.** Agreed.

The following members voted to co-sponsor **HCR 13:** Ackerson, B. Adams, A. S. Adams, J. Allen, Arnold, Bennett, Bevins, Blandford, Blythe, Brinkley, Brown, Bruce, Burnette, Carpenter, Craddock, Crupper, Cyrus, Dawahare, Denham, Deskins, Dietz, Donnermeyer, Doss, Dunn, Floyd, Foster, Gay, Givhan, Gray, Guenthner, Hancock, Hardwick, Head, Holbrook, Holloway, Hopkins, Hughes, Isler, Jones, Kidd, King, Kleier, LeMaster, Lindsay, Little, Mann, Mason, May, Maynard, McBee, McBride, McGill, Morris, Muncy, O'Brien, Overstreet, Pearl, Priddy, Richards, B. Richardson, P. Richardson, Robinson, Romines, Sale, Schmidt, Siemens, Siler, Stephens, Stewart, Tobin, J. Turner, Vincent, Wells, White, Wible, Wright, Yates.

Representative Romines requested that he be recorded as voting "nay" on **HCR 15.**

The Clerk read the report of the Committee on Committees announcing the appointment of the following members to the Committee on Enrollment:

Enrollment Committee

John Isler, Chairman

Dottie Priddy, Vice Chairman

Sam B. Thomas, Vice Chairman

Mary Ann Tobin

Louis DeFalaise

Orders of the Day

HB 27 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Mann moved that **HB 27** be passed.

On the roll call the vote was yeas 81-Ackerson, B. Adams, A. S. Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blandford, Blume, Boatwright, Brinkley, Clarke, Cooper, Craddock, Crupper, Cyrus, Dawahare, DeFalaise, DeMarcus, Denham, Deskins, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Floyd, Foster, Gay, Givhan, Gray, Hancock, Hardwick, Head, Hopkins, Hughes, Isler, Jones, Kenton, Kidd, King, Kleier, LeMaster, Little, Mann, Mason, Maynard, McBee, McBride, McGill, Morgan, Muncy, Nett, O'Brien, Overstreet, Pearl, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Robinson, Romines, Schmidt, Siemens, Siler, Stephens, Stewart, Tobin, Thomas, J. Turner, White, Wible, Wooden, Wright, Yates. Nays 10-Blythe, Brown, Burnette, Carpenter, Clapp, Guenthner, Holbrook, Holloway, Lindsay, Vincent.

HB 27 was passed and the title agreed to.

Representative Mann moved that the vote by which **HB 27** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 88 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative McGill moved that **HB 88** be passed.

On the roll call the vote was yeas 86-Ackerson, B. Adams, J. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blandford, Blume, Blythe, Boatwright, Brinkley, Brown, Bruce, Carpenter, Clarke, Cooper, Craddock, Crupper, Cyrus, Dawahare, DeFalaise, DeMarcus, Denham, Deskins, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Foster, Gay, Givhan, Gray, Guenthner, Hancock, Head, Holbrook, Holloway, Hopkins, Hughes, Isler, Jones, Kenton, Kidd, King, Kleier, LeMaster, Lindsay, Mann, Mason, May, Maynard, McBee, McBride, McGill, Morgan, Morris, Muncy, Nett, O'Brien, Overstreet, Pearl, Priddy, Richards, B. Richardson, P. Richardson, Robinson, Sale, Schmidt, Siemens, Siler, Stewart, Tobin, Thomas, J. Turner, Vincent, Wells, White, Wible, Wooden, Wright, Yates. Nays 1-Burnette.

HB 88 was passed and the title agreed to.

Representative McGill moved that the vote by which **HB 88** was passed by reconsidered and said motion be postponed indefinitely. Agreed.

Announcements

Representative DeFalaise filed Floor Amendment No. 2 to **HB 143.**

Representative Nett filed Floor Amendment No. 1 to **HB 225.**

Representative Hancock announced a meeting of the Committee on Highways and Traffic Safety for Tuesday, January 20, 1976, noon, 10th Floor, State Office Building.

Representative Stephens announced no meeting will be held on Tuesday, January 20, 1976, of the Committee on Education.

Representative Benson announced a meeting of the Committee on Cities for Tuesday, January 20, 1976, 10:00 a.m., Room 305.

Representative Dunn announced a meeting of the Committee on Elections and Constitutional Amendments for Wednesday, January 21, 1976, 9:00 a.m.

The following members requested that their names be added as co-sponsors of Bills and Resolutions: Representative Wooden, **HCR 13;** Representative Cyrus, **HB 172, HB 173;** Representative Donnermeyer, **HB 234;** Representative Hardwick, **HB 200;** Representative Mann, **HB 234;** Representative Cooper, HB 172; Representative Siler, **HB 161, HB 75, HB 179;** Representative Hardwick, **HB 179;** Representative Isler, **HB 234;** Representative Pearl, **HB 179;** Representative Craddock, **HB 236;** Representative Muncy, **HB 172, HB 179, HB 161, HB 75;** Representative Schmidt, **HR 13;** Representative White, **HB 77;** Representative Richards, HB 167, **HB 215, HB 201;** Representative LeMaster, **HB 236;** Representative Bevins, **HB 201;** Representative Isler, **HB 161;** Representative Holbrook, **HB 199, HB 144.**

Adjournment

Representative B. Richardson moved that the House adjourn until 2:00 p.m., Tuesday, January 20, 1976.

On the roll call the vote was yeas 69-B. Adams, A. S. Adams, J. Allen, Arnold, Bennett, Benson, Bevins, Blair, Blandford, Blume, Boatwright, Brinkley, Brown, Burnette, Carpenter, Clapp, Crupper, Cyrus, Deskins, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Foster, Freeman, Givhan, Gray, Head, Hughes, Isler, Jones, Kenton, Kidd, King, Kleier, LeMaster, Little, Mann, Mason, May, Maynard, McBee, McBride, McGill, Morgan, Muncy, Nett, O'Brien, Pearl, Rattliff, Richards, B. Richardson, P. Richardson, Robinson, Sale, Schmidt, Siemens, Siler, Stephens, Stewart, Tobin, Thomas, J. Turner, Vincent, White, Wible, Wooden, Yates. Nays 20-W. Allen, Bendl, Beshear, Blythe, Bruce, Clarke, Cooper, DeFalaise, DeMarcus, Denham, Guenthner, Hancock, Holbrook, Holloway, Hopkins, Imes, Lindsay, Overstreet, Priddy, Wright.

The motion to adjourn was adopted.

TUESDAY, JANUARY 20, 1976

ELEVENTH LEGISLATIVE DAY

The House was called to order by Speaker Kenton.

Prayer by Reverend Beryl Spross, Church of the Nazarene, Frankfort.

The roll was called. All present except Representatives Floyd, McBride, and Overstreet.

Representative Isler moved that absent members be granted leave of absence in accordance with the prevailing rules of the House. Agreed.

Representative Hughes moved that the reading of the Journal of January 14, 1976 be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HB 254, by Representatives Maynard, B. Richardson and Beshear: AN ACT relating to bail.

HB 255, by Representatives B. Richardson and Hancock: AN ACT relating to Franklin Circuit Court.

HB 256, by Representative Carpenter: AN ACT relating to congressional districts.

HB 257, by Representatives Thomas and Blandford: AN ACT relating to elections.

HR 18, by Representative Morgan: A RESOLUTION in memory of W. J. Louden.

HCR 19, by Representative DeFalaise: A CONCURRENT RESOLUTION petitioning the Court of Justice of the Commonwealth of Kentucky to provide by rule a specialization board.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **HB 238, HB 242, HB 244.**

Cities: **HB 252.**

Counties and Special Districts: **HB 253.**

Education: **HB 241, HB 248, HB 249.**

Elections and Constitutional Amendments: **HB 239, SB 33.**

Judiciary-Courts: **HB 250.**

Judiciary-Statutes: **HB 243, HB 245, HB 251.**

Labor and Industry: **HB 247.**

Public Utilities and Transportation: **HB 246.**

State Government: **HB 240.**

Report of Committees

The Committee on Banking and Insurance reported **HB 209, HB 211, HB 212, HB 213** with Committee Amendment attached thereto, and **HB 230** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 209, AN ACT relating to insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 304.17-310 is amended to read as follows:

(1) Family expense health insurance is that provided under a policy issued to one of the family members insured, who shall be deemed the policyholder, covering any two (2) or more eligible members of a family, including husband, wife, dependent children, or any children under a specified age which shall not exceed nineteen (19) years, and any other person dependent upon the policyholder. Any authorized health insurer may issue such insurance.

(2) An individual hospital or medical expense insurance policy or hospital or medical service plan contract delivered or issued for delivery in this state more than 120 days after June 13, 1968, which provides that coverage of a dependent child shall terminate upon attainment of the limiting age for dependent children specified in the policy or contract shall also provide in substance that attainment of such limiting age shall not operate to terminate the coverage of such child while the child is and continues to be both (a) incapable of self-sustaining employment by reason of mental retardation or physical handicap and (b) chiefly dependent upon the policyholder or subscriber for support and maintenance, provided proof of such incapacity and dependency is furnished to the insurer or corporation by the policyholder or subscriber within thirty-one (31) days of the child's attainment of the limiting age and subsequently as may be required by the insurer or corporation but not more frequently than annually after the two (2) year period following the child's attainment of the limiting age.

(3) Any family health policy delivered, or issued for delivery, in this state which provides hospital, medical, or surgical coverage for children shall provide coverage for newborn children from the moment of birth to the limits provided in the policy for congenital anomalies, illnesses, or injuries, including premature birth.

Section 2. KRS 304.18-030 is amended to read as follows:

Each such group health insurance policy shall contain in substance the following provisions:

(1) A provision that, in the absence of fraud, all statements made by applicants or the policyholders or by an insured person shall be deemed representations and not warranties, and that no statement made for the purpose of effecting insurance shall void such insurance or reduce benefits unless contained in a written instrument signed by the policyholder or the insured person, a copy of which has been furnished to such policyholder or to such person or his beneficiary.

(2) A provision that the insurer will furnish to the policyholder for delivery to each employe or member of the insured group a statement in summary form of the essential features of the insurance coverage of such employe or member and to whom benefits thereunder are payable. If dependents are included in the coverage, only one statement need be issued for each family unit.

(3) A provision that to the group originally insured may be added from time to time eligible new employes or members or dependents, as the case may be, in accordance with the terms of the policy.

(4) A provision that any health policy delivered, or issued for delivery, in this state which provides hospital, medical or surgical coverage for children shall provide coverage for newborn children from the moment of birth to the limits provided in the policy for congenital anomalies, illnesses, or injuries, including premature birth.

Section 3. A new section of Subtitle 32 of KRS Chapter 304 is created to read as follows:

Any family contract, plan or policy containing maternity benefits issued in this state by any corporation subject to the provisions of this subtitle which provides hospital, medical, or surgical coverage for children shall provide coverage for newborn children from the moment of birth to the limits provided in the policy for congenital anomalies, illnesses, or injuries, including premature birth.

HB 211, AN ACT relating to the renewal of hospitalization or surgical or medical expense insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of Subtitle 14 of KRS Chapter 304 is created to read as follows:

(1) After two years from its date of issue or the date of its last reinstatement and before the attainment of the age limit, or the date, or the expiration of the period, or the happening of the event such as the qualification for Medicare benefits, if any, stated in the policy, no insurer shall refuse to renew a policy of hospitalization or surgical or medical expense insurance or refuse to renew any other policy in which one-third or more of the total premium is allocable to hospital, surgical or medical expense benefits, or any combination thereof, except for one or more of the following reasons:

(a) Fraud in applying for the policy or in applying for any benefits under the policy;

(b) Demonstrated moral hazard;

(c) Over-insurance or duplication of benefits according to standards stated in the policy on file with the commissioner of insurance;

(d) Discontinuance of a class of policies; and

(e) Such other reasons, including but not limited to, the filing of false claims, as the commissioner of insurance may approve.

(2) After such two year period, in no event shall any insurer refuse to renew any such policy because of a change in the physical or mental condition or the health of any person covered thereunder.

(3) After such two year period, no insurer shall require as a condition for the renewal of any such policy, any rider, endorsement or other attachment which shall limit the nature or extent of the benefits provided thereunder.

(4) In the case of an individual converted policy, such two year period shall commence from the date the insurance as to such person became effective under the policy from which conversion was made.

(5) Nothing contained herein shall prohibit an insurer from making changes in premium rates by classes providing such reservation is contained in the policy, and such changes shall be on file with the Department of Insurance.

(6) The commissioner may require every insurer to file with him such documents, statistics, or other information regarding the refusal to renew permitted by this Act as he may deem necessary for the proper administration of this Act.

(7) This Act shall not apply to or affect:

(a) Any contract of non-cancellable or guaranteed renewable disability insurance;

(b) Any policy or contract of reinsurance;

(c) Any policy of group or blanket insurance;

(d) Any policy providing disability benefits pursuant to the workmen's compensation law;

(e) Any policy of an assessment or cooperative life and accident insurance company;

(f) Life insurance, endowment or annuity contracts, or contracts supplemental thereto which contain only such provisions relating to accident and sickness insurance as provide additional benefits in case of death or dismemberment or loss of sight by accident; or as operate to safeguard such contracts against lapse, or to give a special surrender value or special benefit or an annuity in the event that the insured or annuitant shall become totally and permanently disabled, as defined by the contract or supplemental contract.

(8) Any person wilfully violating any provision of this Act, or any regulation or order of the commissioner made in accordance with this Act, shall be subject to a civil penalty of a sum not to exceed one hundred dollars for each violation. Such civil penalty may be recovered in a civil action brought in the name of the Commonwealth of Kentucky in any court of appropriate jurisdiction. The commissioner may also suspend or revoke the license or authority of an agent or insurer for any such wilful violation.

(9) This Act does not affect policies in effect before July 1, 1976.

Section 2. KRS 304.17-270 is amended to read as follows:

Except as provided in Section 1 of this Act, h[H]ealth insurance policies, other than accident insurance only policies, in which the insurer reserves the right to refuse renewal on an individual basis, shall provide in substance in a provision thereof or in an indorsement thereon or rider attached thereto that subject to the right to terminate the policy upon nonpayment of premium when due, such right to refuse renewal may not be exercised so as to take effect before the renewal date occurring on, or after and nearest, each policy anniversary (or in the case of lapse and re-instatement, at the renewal date occurring on, or after and nearest, each anniversary of the last re-instatement), and that any refusal of renewal shall be without prejudice to any claim originating while the policy is in force. (The parenthetic reference to lapse and re-instatement may be omitted at the insurer's option.)

HB 212, AN ACT relating to life insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 304.15-020 is amended to read as follows:

(1) "Industrial life insurance" is that form of life insurance written under policies of face amount of $3,000 or less issued on the basis of an industrial mortality table, and under which premiums are payable monthly or more often.

(2) "Wholesale life insurance" is that plan of life insurance, other than salary savings life insurance or pension trust insurance and annuities, under which individual policies are issued to the employes of any employer and where such policies are issued on the lives of not less than four (4) employes at date of issue. Premiums for such policies shall be paid either wholly from the employer's funds, or funds contributed by him, or partly from such funds and partly from funds contributed by the insured employes.

(3) "College life insurance" is that form of life insurance sold to college students, the initial premiums for which are financed by a promissory note.

Section 2. A new section of Subtitle 15 of KRS Chapter 304 is created to read as follows:

(1) Every ordinary life, and industrial life, and college life insurance policy shall contain a provision therein or in a separate rider attached thereto when delivered, stating in subtitle that the person to whom the policy is issued shall be permitted to return the policy within ten (10) days of its delivery to such person and have a refund of the premium paid, if after examination of the policy, the purchaser is not satisfied with it for any reason. If the provision is not printed on the face page or filing back of the policy, notification of the provision shall be printed on the face page or filing back of the policy.

Section 3. A new section of Subtitle 15 of KRS Chapter 304 is created to read as follows:

No college life insurance policy shall be sold or delivered in this Commonwealth unless the following provisions are complied with:

(1) A letter of acceptance, on a form approved by the Commissioner is presented to the proposed insured, setting forth the conditions concerning the financing agreement, the due date of the note, the amount of the note, the annual rate of interest on the note, and the annual premium on the policy;

(2) The acceptance letter must be signed by the proposed insured, agreeing that he has read and understands the conditions, a copy to be retained by the insured, and a copy to be retained by the agent and company;

(3) A copy of a financing arrangement is to be attached to and made a part of the contract.

HB 213, AN ACT relating to banking.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 287.050 is amended to read as follows:

(1) Before filing the articles of incorporation of any financial institution mentioned in KRS 287.040, the incorporators shall present a copy of their proposed articles to the commissioner of banking and securities who shall investigate the financial standing, moral character and capability of each of the incorporators, and determine whether there is reasonable assurance of sufficient volume of business for the proposed corporation to be successful, and whether the public convenience and advantage will be promoted by the opening of the proposed corporation.

(2) If the commissioner of banking and securities determines that it is expedient and desirable to permit the proposed corporation to engage in business, he shall approve the articles of incorporation in writing, and the articles then may be filed and recorded as provided in the general corporation law.

(3) Any person aggrieved by a final order of the commissioner may obtain a review of the order by filing in the Franklin Circuit Court within sixty days after the entry of the order, a written petition praying that the order be modified or set aside in whole or in part. A copy of the petition shall be forthwith served upon the commissioner and thereupon the commissioner shall certify and file in court a copy of the application, testimony, and other evidence upon which the order was entered. No objection to the order may be considered by the court unless it was urged before the commissioner or there were reasonable grounds for failure to do so. The findings of the commissioner as to the facts, if supported by substantial evidence, are conclusive. The commencement of proceedings under this section does not, unless specifically ordered by the court, operate as a stay of the commissioner's order. An appeal may be taken from the judgment of the

Franklin Circuit Court to the Supreme Court on the same terms and conditions as an appeal is taken in civil actions.

Section 2. KRS 287.180 is amended to read as follows:

(1) Banks authorized under the laws of this state may, except as provided in subsection (2) of this section, exercise, only at their principal office, powers necessary to carry on the business of banking by discounting and negotiating notes, drafts, bills of exchange and other evidences of debt, and by purchasing bonds, receiving deposits and allowing interest thereon, buying and selling exchange, coin and bullion and lending money on personal or real security.

(2) Any corporation presently or hereafter engaged in the business of banking, and meeting the requirements of this subsection, may apply to the commissioner of banking and securities for permission to establish, within the city in which its principal office is located and, subject to the limitation hereinafter imposed, within the county in which its principal office is located a branch at which all of the powers conferred in subsection (1) of this section may be exercised. Before the commissioner of banking and securities shall approve or disapprove any application made under this subsection he shall ascertain and determine that the public convenience and advantage will be served and prompted thereby and that there is reasonable probability of the successful operation of such branch. *Appeals from orders of approval or disapproval shall be governed by the provisions of KRS 287.050(3).* No such branch shall be authorized or approved by the commissioner unless all of the following are complied with:

(a) No such corporation having a combined capital and surplus of less than $100,000 shall be permitted to establish any branch. Any corporation applying for permission to establish a branch shall, be required to have a minimum combined capital and surplus for each branch applied for in accordance with the following table:

If the principal office is located in:

1. An unincorporated area or in a city of 7,999 population or less $100,000
2. City with population of 8,000 to 19,999..$200,000
3. City with population of 19,999 and over one branch may be authorized for every $250,000 of capital and surplus.

Said population is to be determined by the last census or any future census of the United States.

(b) No such corporation shall be permitted to establish a branch in any incorporated city, other than in the city in which its principal office is located, in which there is an existing bank. Nor shall any such corporation be permitted to establish a branch in any unincorporated area within a radius of one (1) mile of an existing bank located in such unincorporated area. As used in this subsection, an "existing bank" shall mean the principal office of a bank as distinguished from a branch thereof.

(c) The permission to open a branch shall lapse at the end of six (6) months unless it shall have been opened and business actually begun in good faith. For reasons determined by the commissioner of banking and securities to be sufficient said permission to open a branch may, with the approval of the commissioner, be extended for one six months' period.

(3) Any corporation which on January 1, *1976* [1966], was engaged in operating an agency or branch bank, may continue to retain and operate the same under the general banking laws, and the requirements set forth in this section in respect to capital shall not apply to any such existing agency or branch bank but only as to those agencies or branch banks which may be established in the future pursuant to the terms of this section.

(4) The provisions of this section shall not be construed to prohibit the merger of banks in the same county and the operation by the merged corporation of such banks, nor to prohibit the sale of any bank to, and the purchase thereof by, any other bank in the same county and the operation of such bank by the purchasing bank as a branch, provided the commissioner of banking and securities shall determine that the public convenience and necessity will be served by such operation, and provided further that, at the time of such merger or purchase, each of the banks involved shall have been in operation for a period of five (5) years or more.

(5) Any national banking association or any state bank member of the federal reserve system whose principal office is located in this state is hereby authorized to do all things and perform all acts which state banks are permitted to do or perform under this section, subject to the conditions and restrictions provided for banks as to exercise of such powers.

(6) When a branch or agency bank has once been established any operation thereof shall not be discontinued, and said branch or agency bank shall not be closed until after ninety (90) days notice in writing to the commissioner. In the discretion of the commissioner said branch or agency bank proposing to discontinue operation may be required to give notice of the date when such operation will cease.

The Committee Amendment to **HB 213** is as follows:

Amend printed copy of House Bill 213, on page 2, line 17 by deleting the words "to the Supreme"

and on line 18, by deleting the word "Court"

and on line 19, and by adding the word "other" after the word "in" and before the word "civil."

HB 230, AN ACT relating to life insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 304.15-140 is amended to read as follows:

There shall be a provision that when the benefits under the policy shall become payable by reason of the death of the insured, settlement shall be made upon receipt of due proof of death and, at the insurer's option, surrender of the policy and/or proof of the interest of the claimant. If an insurer shall specify a particular period prior to the expiration of which settlement shall not be made, such period shall not exceed *thirty (30) days* [two (2) months] from the receipt of such proofs.

Section 2. A new section of subtitle 15 of KRS Chapter 304 is created to read as follows:

(1) When benefits under a policy become payable by reason of the death of the insured, except for reasonable cause settlement shall be made by the insurer within thirty (30) days from receipt of due proof of death and proof of the interest of the claimant.

(2) Any insurer who vexatiously and without reasonable cause refuses to pay the policy benefits as provided in subsection (1) of this Act shall in addition to the policy benefits be liable to the beneficiary in an amount equal to one percent (1%) of the face amount of the policy, and an additional one percent (1%) of the face amount of the policy for each ensuing thirty (30) day period, or part thereof, until the policy benefits are paid.

The Committee on Cities reported **HB 47, HB 50, HB 55** and **HB 57** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 47, AN ACT relating to taxes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 139.470 is amended to read as follows:

There are excluded from the computation of the amount of taxes imposed by this chapter:

(1) Gross receipts from the sale of, and the storage, use or other consumption in this state of, tangible personal property the gross receipts from the sale of which, or the storage use or other consumption of which, this state is prohibited from taxing under the constitution or laws of the United States, or under the constitution of this state;

(2) Gross receipts from sales of, and the storage, use or other consumption in this state of:

(a) Nonreturnable containers when sold without the contents to persons who place the contents in the container and sell the contents together with the container;

(b) Returnable containers when sold with the contents in connection with a retail sale of the contents or when resold for refilling;

As used in this section the term "returnable containers" means containers of a kind customarily returned by the buyer of the contents for reuse. All other containers are "nonreturnable containers";

(3) Gross receipts from the sale of, and the storage, use or other consumption in this state of, tangible personal property used for the performance of a lump sum, fixed fee contract of public works executed prior to February 5, 1960;

(4) Gross receipts from occasional sales of tangible personal property and the storage, use or other consumption in this state of tangible personal property, the transfer of which to the purchaser is an occasional sale;

(5) Gross receipts from sales of tangible personal property to a common carrier, shipped by the seller via the purchasing carrier under a bill of lading, whether the freight is paid in advance or the shipment is made freight charges collect, to a point outside this state and the property is actually transported to the out-of-state destination for use by the carrier in the conduct of its business as a common carrier.

(6) Gross receipts from sales of tangible personal property made in one cent (1¢) portions through vending machines.

(7) Gross receipts from the sale of, and the storage, use or other consumption in this state of tangible personal property or services to any units of local government in Kentucky. "Units of local government" means any city, county, urban county government, housing authority, school district, or special district, as defined in KRS 65.005, which are authorized and regulated by statute and which provide government type services. To facilitate the change in tax application occasioned by this subsection, suppliers of utility services shall apply the new procedure beginning with the first customer billing after the effective date of this subsection.

Section 2. KRS 139.990 is amended to read as follows:

(1) Any person who gives a resale certificate for property, knowing at the time of purchase that such property is not to be resold by him in the regular course of business, for the purpose of evading the tax imposed under this chapter shall, upon conviction, be subject to a fine of not less than ten (10) nor more than one hundred dollars ($100) or imprisoned in jail for a period not exceeding thirty (30) days, or both such fine and imprisonment.

(2) A person who engages in business as a seller in this state without a permit or permits as required by this chapter or after a permit has been suspended, and each officer of any corporation which is so engaged in business, is guilty of a misdemeanor and upon conviction thereof shall be fined not less than ten (10) nor more than one hundred dollars ($100), or imprisoned for not more than thirty (30) days, or both such fine and imprisonment.

(3) Any person who violates any of the provisions of KRS 139.220, 139.370, 139.380, 139.700, or 139.750 shall, upon conviction, be subject to a fine of not less than ten (10) nor more than one hundred dollars ($100), or imprisoned in jail for a period not exceeding thirty (30) days, or both such fine and imprisonment.

(4) Any person who violates any of the regulations promulgated by the department under KRS 139.230 shall, upon conviction, be subject to a fine of not less than ten (10) nor more than one hundred dollars ($100) or imprisoned in jail for a period not exceeding thirty (30) days, or both such fine and imprisonment.

(5) Any person who uses or attempts to use the exemption granted in subsection (7) of KRS 139.470 to avoid payment of the taxes imposed by this chapter on the sale of tangible personal property for his own or another's personal use or consumption, shall, upon conviction, be fined not less than one hundred dollars ($100) nor more than five thousand dollars ($5000), or imprisoned in the penitentiary for a period of not less than one (1) year nor more than three (3) years, or both.

HB 50, AN ACT relating to bond issues.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 66.050 is amended to read as follows:

(1) If, in any year, the legislative body of *any city or urban county government* [a city of the first or second class] deems it necessary to incur any indebtedness that cannot be paid without exceeding the income and revenue provided for the city *or urban county government* for that year, it shall, by ordinance, order an election by the voters of the city *or urban county government* to determine whether the indebtedness shall be incurred and bonds issued therefor. The ordinance shall specify the amount of the indebtedness proposed to be incurred, the purpose, and the amount of money necessary to be raised annually by taxation for an interest and sinking fund. The ordinance shall be published pursuant to KRS chapter 424. The city *or urban county government* shall file a certified copy of the ordinance with the county clerk of the county in which the city *or urban county government* is located, at least thirty (30) days prior to the next regular election, and thereupon the county clerk shall cause the question of incurring the indebtedness and issuing bonds to be printed upon the ballots to be used in the *election* [city precincts]. The election shall be held under the general election laws.

(2) If two-thirds (2/3) of the votes cast on the question are in favor of incurring the indebtedness, the city *or urban county* legislative body may incur the indebtedness and issue bonds of the city *or urban county government*, and shall by ordinance provide for the mode of creating and paying the indebtedness. The ordinance shall provide for the levy and collection of an annual tax upon all taxable property within the city *or urban county government*, sufficient to pay the interest on the indebtedness and create a sinking fund for the payment of the principal within a period of not more than forty (40) years from the time of incurring the indebtedness. The annual tax shall be levied and collected at the same time as other taxes, and shall be in addition to all other taxes. The proceeds of the tax, when collected, shall be kept in the city *or urban county government* treasury as a separate fund, to be inviolably appropriated to the payment of the principal and interest of the indebtedness.

Section 2. KRS 66.060 and 66.070 are hereby repealed.

HB 55, AN ACT relating to the transfer of cities to another class.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 81.030 is amended to read as follows:

(1) Any *member of the General Assembly sponsoring a bill directing that a* city *be transferred from one class to another* [of the third, fifth or sixth class] *shall obtain a certified copy of the current federal census* [may, by ordinance, have a census taken] to determine whether the population of the city entitles it to be placed in another class. The *sponsor shall submit the census to the general assembly and the* census *shall* [may] be considered by the general assembly in determining whether the city shall be assigned to another class.

(2) When a city [of the third, fifth or sixth class] has been assigned by the general assembly to another class, it shall thereafter be governed by and under the general laws relating to the class to which it has been assigned, but the transfer from one (1) class to another shall not affect any ordinance theretofore enacted by the city, except that any ordinance in conflict with the general laws relating to cities of the class to which the city has been assigned shall be repealed to the extent it so conflicts. The powers, rights, duties, or obligations of the city, or of any officer, employe, debtor or creditor of the city shall not be affected by the transfer.

HB 57, AN ACT relating to municipal statute revision.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 82 is created to read as follows:

The purpose of the Municipal Statute Revision Commission shall be to study and review the laws pertaining to cities with a goal toward making them uniform throughout all classes of cities; to establish a continuing survey of the needs of the cities in municipal statute revision; and to publish and make available to public officials compilations of these laws to assist them in the better understanding and effective discharge of their duties to the citizens of the Commonwealth.

Section 2. A new section of KRS Chapter 82 is created to read as follows:

The Governor shall on or before August 1, 1976 appoint a Municipal Statute Revision Commission composed of nine (9) members. One (1) member shall be selected from the faculty of each of the following: the University of Kentucky College of Law, the University of Louisville Law School and the Chase Law School of Northern Kentucky State College; one (1) member from a list submitted by the Board of Governors of the Kentucky Bar Association; one (1) member from a list submitted by the Municipal League; one (1) member from a list submitted by the Municipal Attorneys' Association of Kentucky; and one (1) member from a list submitted by the Urban Affairs Council. The chairman of the house committee and the chairman of the senate committee of the General Assembly, having jurisdiction over municipalities, in the year in which the appointment is to be made, shall also serve as members of the Municipal Statute Revision Commission. In the event that either or both of these persons are unable to serve, or a vacancy occurs, the Governor shall appoint a legislator who was a member of the committee having jurisdiction over municipalities in the General Assembly session preceding the appointment and who was a member of the same chamber as the person who is unable to serve.

Section 3. A new section of KRS Chapter 82 is created to read as follows:

The members of the commission shall serve for a period of two (2) years. Vacancies in the commission shall be filled by appointment in the same manner as the original appointment, except as provided in Section 2 of this Act.

Section 4. A new section of KRS Chapter 82 is created to read as follows:

The members of the commission shall serve without pay, but shall receive their reasonable and necessary expenses in connection with the performance of their duties to be paid out of the sum appropriated to the commission.

Section 5. A new section of KRS Chapter 82 is created to read as follows:
This commission shall constitute an independent agency of state government.

Section 6. A new section of KRS Chapter 82 is created to read as follows:
The State Property and Buildings Commission shall provide the commission with suitable office space convenient to the State Law Library.

Section 7. A new section of KRS Chapter 82 is created to read as follows:
The commission in preparing municipal statutes for publication and distribution shall not alter the sense, meaning or effect of any Act of the General Assembly. The commission shall report periodically to the joint interim committee of the General Assembly having jurisdiction over municipalities and to the Governor during the 1976-78 interim. A comprehensive report with recommendations for statute revision shall be prepared and submitted to the 1978 General Assembly.

Section 8. A new section of KRS Chapter 82 is created to read as follows:
The commission shall appoint a Director of Municipal Statute Revision, who may be a member of the commission and who need not be a full-time employe; and, a Deputy Director, who shall be a full-time employe and who shall not be a member of the commission. The Director may employ such other persons as may be necessary for the effective operation of the commission. The Director may accept the voluntary services of interested citizens who shall serve without pay, but who shall receive their reasonable and necessary expenses to be paid out of the sum appropriated to the commission.

Section 9. To carry out the purpose of this Act, there is appropriated to the Municipal Statute Revision Commission out of the General Fund in the State Treasury the sum of two hundred ninety-four thousand three hundred and eighty dollars ($294,380) for the fiscal year of 1976-77 and the sum of two hundred ninety-five thousand six hundred dollars ($295,600) for the fiscal year of 1977-78.

The Committee on Rules reported **HB 26** has been posted for passage in Orders of the Day, January 20, 1976.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration.

Appropriations and Revenue: **HJR 12.**

Agriculture and Natural Resources: **HB 1.**

Calendar

HB 79 with Committee Amendment attached thereto, **HB 150, HB 94, HB 99, HB 143** with Committee Amendment attached thereto, **HB 188, HB 91, HB 179** with Committee Substitute attached thereto, and **SB 69** taken from the Calendar and ordered read at length for the second time. Representative B. Richardson moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Motions, Petitions and Communications

Representative B. Richardson moved that the rules be suspended for the purpose of allowing the privilege of the floor to Terry McBrayer.

On the roll call the vote was yeas 82-Ackerson, B. Adams, A. S. Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blandford, Blume, Blythe, Boatwright, Brinkley, Brown, Burnette, Carpenter, Clapp, Clarke, Cooper, Craddock, Crupper, Cyrus, Dawahare, DeFalaise, Denham, Deskins, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Foster, Givhan, Gray, Guenthner, Hancock, Hardwick, Head, Holbrook, Hopkins, Hughes, Imes, Jones, Kenton, Kidd, King, Kleier, LeMaster, Little, Mann, Mason, McBee, McGill, Morris, Muncy, Nett, Pearl, Rattliff, Richards, B. Richardson, P. Richardson, Robinson, Sale, Schmidt, Siemens, Siler, Stephens, Stewart, Tobin, Thomas, J. Turner, R. Turner, Vincent, White, Wible, Wooden, Wright, Yates. Nays 3-DeMarcus, Isler, Morgan.

The motion that the rules be suspended for the purpose of allowing the privilege of the floor to Terry McBrayer was adopted.

Representative B. Richardson moved that a call of the roll be taken to show co-sponsors of **HB 254.** Agreed.

The following members voted to co-sponsor **HB 254:** A. S. Adams, Beshear, Blair, Boatwright, Cooper, Cyrus, Dietz, Donnermeyer, Doss, Fitzgerald, Jones, Mann, Mason, Morgan, Richards, J. Turner, Vincent.

Representative B. Richardson moved that the following members be appointed to the Advisory Committee of the Coal County Development Fund: Representatives Head, Doss, Freeman, Dawahare, and Little.

On the roll call the vote was yeas 77-B. Adams, A. S. Adams, J. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blandford, Blume, Blythe, Boatwright, Brinkley, Brown, Bruce, Burnette, Carpenter, Clarke, Cooper, Craddock, Crupper, Cyrus, Dawahare, Denham, Deskins, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Foster, Gay, Givhan, Gray, Hancock, Hardwick, Hughes, Imes, Isler, Jones, Kenton, Kidd, King, Kleier, LeMaster, Little, Mason, May, Maynard, McGill, Morgan, Morris, Nett, O'Brien, Pearl, Richards, B. Richardson, P. Richardson, Romines, Sale, Schmidt, Siemens, Stephens, Stewart, Tobin, Thomas, J. Turner, R. Turner, Vincent, Wells, White, Wible, Wooden, Wright, Yates. Nays 0.

The motion that Representatives Head, Doss, Freeman, Dawahare, and Little be appointed to the Advisory Committee of the Coal County Development Fund was adopted.

Representative Kleier requested that his name be removed as a co-sponsor of **HB 225.** Agreed.

Representative Morgan moved that the rules be suspended for the purpose of acting upon a Resolution. Agreed.

Representative Morgan moved the adoption of the following **HR 18:**

HR 18, A RESOLUTION in memory of W. J. Louden.

WHEREAS, W. J. Louden served in the Kentucky House of Representatives from 1968 until his death on July 15, 1974; and

WHEREAS, "Jay" Louden's life on earth was one of selfless concern for the welfare of the people of his community, his 59th legislative district, and his commonwealth; and

WHEREAS, those with and for whom "Jay" Louden served will long remember his pleasant association and continue to view with utmost regret his loss and the void thereby created, which so few could ably fill;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

That when the House of Representatives adjourns this day, Tuesday, January 20, 1976, it does so in honor and memory of the late W. J. Louden.

On the roll call the vote was yeas 92-Ackerson, B. Adams, A. S. Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blandford, Blume, Blythe, Boatwright, Brinkley, Brown, Bruce, Burnette, Carpenter, Clapp, Clarke, Craddock, Crupper, Cyrus, Dawahare, DeFalaise, Denham, Deskins, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Foster, Gay, Givhan, Gray, Guenthner, Hancock, Hardwick, Head, Holbrook, Holloway, Hopkins, Hughes, Imes, Isler, Jones, Kidd, King, Kleier, LeMaster, Lindsay, Little, Mann, Mason, May, Maynard, McBee, McGill, Morgan, Morris, Muncy, Nett, O'Brien, Pearl, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Robinson, Romines, Sale, Schmidt, Siemens, Siler, Stephens, Stewart, Tobin, Thomas, J. Turner, R. Turner, Vincent, Wells, White, Wible, Wooden, Wright, Yates. Nays 0.

HR 18 was adopted.

Representative DeFalaise moved that the rules be suspended for the purpose of introduction of and action on Legislative Citation No. 2. Agreed.

Representative DeFalaise moved the adoption of the following Legislative Citation No. 2:

The House of Representatives of the Commonwealth of Kentucky hereby recognizes The Honorable Eugene E. Siler, Jr., United States Judge of the Eastern District of Kentucky, and applauds his recent elevation to the federal bench. This body gratefully acknowledges past service to the Commonwealth as County Attorney for Whitley County and as a United States Attorney for the Eastern District of Kentucky. Following in the footsteps of his illustrious father, Eugene E. Siler, Jr., former Judge of the Kentucky Court of Appeals and former United States Congressman of the Fifth Congressional District, Judge Siler has become a distinguished jurist who will serve the Commonwealth of Kentucky faithfully and honorably. (Sponsored by Representative DeFalaise)

Agreed.

Representative Stephens moved that **HB 33** be withdrawn from consideration. Agreed.

Representative B. Richardson moved that certificates of co-sponsors be sent to the Clerk's desk after receiving permission of original sponors. Agreed.

Said co-sponsors are as follows:

HB 174: Representatives Cooper and Cyrus.

Orders of the Day

HB 26 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Mann moved that consideration of **HB 26** be deferred and that it retain its position in Orders of the Day. Agreed.

Adjournment

Representative B. Richardson moved that the House adjourn until 2:00 p.m., Wednesday, January 21, 1976.

On the roll call the vote was yeas 81-B. Adams, A. S. Adams, J. Allen, W. Allen, Bendl, Benson, Beshear, Bevins, Blair, Blandford, Blume, Blythe, Boatwright, Brinkley, Brown, Bruce, Carpenter, Clarke, Cooper, Craddock, Crupper, Cyrus, Dawahare, DeFalaise, DeMarcus, Denham, Deskins, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Foster, Givhan, Gray, Hancock, Hardwick, Holbrook, Hughes, Isler, Jones, Kenton, Kidd, King, Kleier, LeMaster, Lindsay, Little, Mann, Mason, Maynard, McBee, McGill, Morris, Muncy, Nett, O'Brien, Pearl, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Robinson, Romines, Sale, Schmidt, Siemens, Siler, Stephens, Stewart, Tobin, Thomas, J. Turner, R. Turner, Vincent, White, Wible, Wooden, Wright, Yates. Nays 0.

The motion to adjourn was adopted.

WEDNESDAY, JANUARY 21, 1976

TWELFTH LEGISLATIVE DAY

The House was called to order by Speaker Kenton.

Prayer by Reverend Beryl Spross, Church of the Nazarene, Frankfort.

The roll was called. All present except Representatives Blythe, Gay, and McBride.

Representative Isler moved that absent members be granted leave of absence in accordance with the prevailing rules of the House. Agreed.

Representative Hughes moved that the reading of the Journal of January 20, 1976, be dispensed with and the same approved. Agreed.

Representative Clarke moved that the rules be suspended to make a motion. Agreed.

Representative Clarke moved that the Committee on Appropriations and Revenue be allowed to meet during a recess. Agreed.

Recess

Representative Clarke moved that the House recess for ten minutes. Agreed.

At the appointed hour, the Speaker resumed the chair and called the House to order.

Introduction of Bills and Resolutions

HB 258, by Representatives Denham, Priddy, Hughes and DeMarcus: AN ACT relating to public accountants.

HB 259, by Representatives Hopkins and Hughes: AN ACT relating to taxation.

HB 260, by Representative Freeman: AN ACT relating to higher education.

HB 261, by Representative Lindsay: AN ACT relating to child custody.

HB 262, by Representative Donnermeyer: AN ACT relating to plumbers and plumbing.

HB 263, by Representative Donnermeyer: AN ACT relating to plumbers and plumbing.

HB 264, by Representatives Maynard, Ackerson, Bendl, Bennett, Blandford, Blythe, DeMarcus, Freeman, Gay, Guenthner, Hardwick, Holbrook, Hopkins, Hughes, Jones, Kleier, Little, Mann, Mason, Priddy, B. Richardson, Robinson, Romines, Thomas, Wible, and Wooden: AN ACT relating to elections.

HB 265, by Representative Lindsay: AN ACT relating to death.

HB 266, by Representative Freeman: AN ACT relating to higher education academic programs.

HB 267, by Representative Freeman: AN ACT relating to higher education.

HB 268, by Representative Imes: AN ACT relating to members of police and fire departments in cities of third class.

HB 269, by Representatives Hardwick, B. Adams, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blandford, Blythe, Brown, Burnette, Clarke, Cooper, Cyrus, Dawahare, DeFalaise, DeMarcus, Deskins, Dietz, Donnermeyer, Dunn, Fitzgerald, Foster, Gay, Givhan, Gray, Guenthner, Holbrook, Holloway, Hopkins, Hughes, Jones, Kidd, King, Kleier, LeMaster, Little, Mann, Mason, May, Maynard, Muncy, O'Brien, Overstreet, Priddy, Rattliff, Romines, Schmidt, Siemens, Siler, Tobin, Thomas, R. Turner, White, Wible, Wooden, and Yates: AN ACT relating to insurance.

HB 270, by Representatives Rattliff, Siler and Muncy: AN ACT relating to textbooks.

HB 271, by Representative Beshear: AN ACT relating to the protection of the environment.

HB 272, by Representative DeFalaise: AN ACT relating to purgation of voters.

HB 273, by Representative DeFalaise: AN ACT relating to the licensing of motor vehicles.

HB 274, by Representative Givhan: AN ACT relating to criminal records.

HB 275, by Representative Givhan: AN ACT relating to the recording of plats and surveys.

HB 276, by Representatives Yates, Bennett, Holloway, Hughes, Kidd, McGill, O'Brien, Priddy, and Romines: AN ACT proposing an amendment to Section 144 of the Constitution of Kentucky relating to Fiscal Courts.

HB 277, by Representatives Deskins, Mason, Little, and Muncy: AN ACT relating to compensation of jurors.

HB 278, by Representatives Deskins, Mason, Little, Muncy, and P. Richardson: AN ACT relating to county attorneys.

HB 279, by Representative Clark: AN ACT relating to collection and distribution of fines and forfeitures from district courts.

HB 280, by Representative Mann: AN ACT relating to the funding of state professional and occupational license boards and commissions.

HB 281, by Representative Mann: AN ACT relating to suspension of contracts of certified public school employes.

HB 282, by Representative Mann: AN ACT relating to landlords and tenants.

HB 283, by Representative Blume: AN ACT proposing an amendment to Section 42 of the Constitution of Kentucky relating to the meeting of the General Assembly.

HB 284, by Representatives Brown, Denham and Foster: AN ACT relating to education.

HB 285, by Representatives Brown, Denham, and Foster: AN ACT relating to liability to trespassers.

HB 286, by Representatives Brown and Foster: AN ACT relating to unemployment compensation.

HB 287, by Representative B. Richardson: AN ACT relating to the promotion of state police officers.

HB 288, by Representative B. Richardson: AN ACT relating to the state archives and records commission.

HB 289, by Representative B. Richardson: AN ACT relating to adoption.

HR 20, by Representative Isler: A RESOLUTION in memory of Allen Brooks Hinkle.

HCR 21, by Representative B. Richardson: A CONCURRENT RESOLUTION to convene a session of the General Assembly in the Old State House.

HR 22, by Representatives Donnermeyer, Schmidt, Isler, King, Crupper, McBee and Mann: A RESOLUTION declaring February as "Respect for Life Month."

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **HB 255, HB 257.**

Judiciary-Courts: **HCR 19.**

Judiciary-Statutes: **HB 254.**

State Government: **HB 256.**

Report of Committees

The Committee on Appropriations and Revenue reported **HJR 12** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HJR 12, A JOINT RESOLUTION making an appropriation to the Legislative Research Commission for special expenses incurred in connection with sessions of the General Assembly and declaring an emergency.

WHEREAS, additional personnel are necessary to expedite properly the business of the Senate and the House of Representatives; and

WHEREAS, the present appropriation of the Legislative Research Commission is insufficient to provide adequate clerical services to the General Assembly.

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

That there be appropriated out of the General Expenditure Fund to the Legislative Research Commission the sum of six thousand one hundred fifteen dollars ($6,115) per calendar day during all regular and special sessions of the General Assembly. This appropriation shall be available for expenditure during the 1975-76 and 1976-77 fiscal years.

WHEREAS, the General Assembly is now in session and it is necessary that these funds be available immediately, an emergency is declared to exist and this resolution shall become effective upon its passage and approval by the Governor, and shall be retroactive to include payment of compensation to such personnel from and including January 6, 1976.

The Committee on Appropriations and Revenue reported **HB 174,** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 174, AN ACT relating to city license tax on insurance companies.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 92.285 is amended to read as follows:

(1) The legislative body of each city which is authorized to impose and collect license fees or taxes upon insurance companies for the privilege of engaging in the business of insurance shall file with the commissioner of insurance a copy of all ordinances and amendments thereto which impose any such license fee or tax.

(2) Any license fee or tax imposed by such a city upon any fire insurance company shall be based upon a percentage of the premiums received by the company within the preceding calendar year, for insurance on property located within the corporate limits of the city, less all premiums returned to policyholders. A fire insurance company entering a city during a license year shall at the end thereof promptly pay to such city the full additional tax due on such percentage basis.

(3) Any license fee or tax imposed by such a city upon a life insurance company may be based upon premiums received, and if so based shall be applied to premiums from new policies written within the preceding calendar year upon the lives of persons residing within the corporate limits of such city.

(4) Any license fee or tax imposed by such a city upon any insurance company other than those specified in subsections (2) and (3) shall be based upon a percentage of the premiums received by such company within the preceding calendar year on risks located within the corporate limits of the city on those classes of business which such company is authorized to transact, less all premiums returned to policyholders, Provided, however, That any license fee or tax imposed upon premium receipts on a percentage basis shall not include premiums received for insuring employers against liability for personal injuries to their employes, or death caused thereby, under the provisions of the Workmen's Compensation Act.

(5) Any city which imposes a license fee or tax as authorized by this section may, by ordinance, provide for a collection fee to be retained by the insurance company or its agent as compensation for collecting such tax; provided, however, that the collection fee shall not exceed ten percent of the fee or tax collected by the company or agent and remitted to the city.

(6) Any city which imposes a license fee or tax under this section shall examine the books and records of the insurance companies or agents subject to such fee or tax on a periodic basis to detemine whether the fee or tax is being properly collected and remitted, and the findings of such examination shall be reported to the Commissioner of Insurance. Willful failure to properly collect and remit the fee or tax imposed by a city pursuant to the authority granted by this section shall constitute grounds for the revocation of the license issued to an insurance company or agent under the provisions of KRS Chapter 304.

(7) [(5)] The license fees or taxes provided for by subsections (2), (3) and (4) of this section shall be due at the beginning of the tax year. The city may collect a fee of five dollars ($5.00) from any company whose fee or tax on the percentage of premium basis is less than five dollars ($5.00).

The Committee Amendment to **HB 174** is as follows:

Amend printed copy of House Bill 174 on page 1, line 3, after the word city insert "*or urban county government*"

and on page 1, line 9, after the word city insert "*or urban county government*"

and on page 1, line 15, after the word city insert "*or urban county government*"

and on page 1, line 16, after the word city insert "*or urban county government*"

and on page 1, line 18, after the word city insert "*or urban county government*"

and on page 2, line 4, after the word city insert "*or urban county government*"

and on page 2, line 5, after the word city insert "*or urban county government*"

and on page 2, line 10, after the word city insert "*or urban county government*"

and on page 2, line 18, after the word city insert "*or urban county government*"

and on page 2, line 24, after the word city insert "*or urban county government*"

and on page 2, line 25, after the word city insert "*or urban county government*"

and on page 3, line 6, after the word city insert "*or urban county government*"

and on page 3, line 13, after the word city insert "*or urban county government*".

The Committee on Rules reported **HB 16, HB 21, HB 150, HB 94, HB 179** with Committee Substitute attached thereto, and **HB 91** have been posted for passage in Orders of the Day, January 21, 1976.

Bills and Resolutions Posted for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Judiciary-Statutes: **HB 93.**

Elections and Constitutional Amendments: **HR 13.**

Judiciary-Courts: **HB 219.**

State Government: **HB 137, HB 138, HB 139, HB 140, HB 141, HB 142, HB 146, HB 169, HB 217, HB 225.**

Calendar

HB 209, HB 211, HB 212, HB 213 with Committee Amendment attached thereto, **HB 230, HB 47, HB 50, HB 55,** and **HB 57** taken from the Calendar and ordered read at length for the second time. Representative B. Richardson moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Motions, Petitions and Communications

Representative Isler moved the adoption of the following **HR 20:**

HR 20, A RESOLUTION in memory of Allen Brooks Hinkle.

WHEREAS, Allen Brooks Hinkle, until his death on August 5, 1974, had, since 1956, served with distinction as Representative of the 72nd district of the House of Representatives in the Kentucky General Assembly; and

WHEREAS, the educational systems of Franklin and Bourbon Counties benefited greatly from the work of Brooks Hinkle as a teacher and principal, as have the teachers and students of the entire state benefited from his untiring efforts in the General Assembly, to provide quality education for all of Kentucky's citizens; and

WHEREAS, persons who knew Brooks Hinkle both in and out of Kentucky government, and those who did not know him, but profited from his public service, will feel his absence from this life;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

That when the House of Representatives adjourns this day, Wednesday, January 21, 1976, it does so in honor and memory of the late Allen Brooks Hinkle.

HR 20 was adopted by voice vote.

Representative Donnermeyer moved the adoption of the following **HR 22:**

HR 22, A RESOLUTION declaring February as "Respect for Life Month".

WHEREAS, the principles which the United States Constitution fosters herald the preservation and protection of human life; and

WHEREAS, the righteousness of these ideals on which our founding fathers conceived our nation must prevail and insure that the right of life remain the liberty of all Americans; and

WHEREAS, in order to insure that the right to life remain the liberty of all Americans, compassionate and dedicated endeavors should be undertaken to reinvigorate the meaning of humanity, and efforts should be directed toward rectifying all injustice and inequality wherever it exists; and

WHEREAS, in dedicating our minds, hearts and abilities to advancing the respect for all human life, it is recognized that this basic right of life must be insured to all innocent human beings, regardless of their age, health, race, sex, religion, circumstance or condition of dependency, including the young and the old, the born and the unborn, the rich and the poor, and the incompetent, impaired and incapacitated, as well as the healthy;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That February is declared "Respect for Life Month," and that all citizens of the Commonwealth of Kentucky are urged to commemorate "Respect for Life Month" with appropriate observances, to inform themselves conscientiously concerning these vital issues, and to promote personally and collectively through word and deed respect for all human life.

Section 2. That the clerk is directed to forward a duly attested copy of this resolution to all members of Congress from the Commonwealth of Kentucky.

HR 22 was adopted by voice vote.

Representative B. Richardson moved the adoption of the following **HCR 21:**

HR 21, A CONCURRENT RESOLUTION to convene a session of the General Assembly in the Old State House.

WHEREAS, this year of 1976 marks the Bicentennial of our nation; and

WHEREAS, the General Assembly is behooved to take note of this event in a manner befitting its significance; and

WHEREAS, Kentucky's Old State House for many years the site of sessions of the General Assembly, offers an historical significance most suitable for such Bicentennial observance; and

WHEREAS, the Kentucky Historical Society has most cordially urged the convening of a session of the General Assembly in the Senate and House chambers of the Old State House;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That when the House of Representatives and the Senate convene on Monday, January 26, 1976, they do so at 4:00 p.m. in the respective legislative chambers of the Old State House of Kentucky, Frankfort, for the conduct of as much of the regular order of business for such day as they deem suitable.

Section 2. That the House of Representatives and the Senate appoint a committee to wait upon the Governor, and receive in Joint Session on such date any message he may care to deliver.

Section 3. That the Clerk is hereby directed to transmit a copy of this resolution to Colonel W. R. Buster, Director, Kentucky Historical Society, Frankfort, Kentucky.

On the roll call the vote was yeas 91-Ackerson, B. Adams, A. S. Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blandford, Blume, Boatwright, Brinkley, Brown, Bruce, Burnette, Carpenter, Clapp, Clarke, Cooper, Crupper, Cyrus, Dawahare, DeFalaise, DeMarcus, Denham, Deskins, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Floyd, Foster, Givhan, Gray, Guenthner, Hancock, Hardwick, Head, Holbrook, Holloway, Hopkins, Hughes, Hurst, Imes, Isler, Jones, Kenton, Kidd, King, LeMaster, Lindsay, Little, Mann, Mason, May, Maynard, McBee, McGill, Morgan, Muncy, Nett, O'Brien, Overstreet, Pearl, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Robinson, Romines, Sale, Schmidt, Siemens, Siler, Stephens, Tobin, Thomas, R. Turner, Vincent, Wells, White, Wible, Wooden, Wright, Yates. Nays-0.

HCR 21 was adopted.

Representative Bruce moved that the rules be suspended to allow the privilege of the floor to former representative John Hardin. Agreed.

Representative Bruce moved that John Hardin be allowed the privilege of the floor.

On the roll call the vote was yeas 79-B. Adams, A. S. Adams, J. Allen, W. Allen, Arnold, Bennett, Beshear, Bevins, Blandford, Blume, Boatwright, Brinkley, Brown, Bruce, Burnette, Carpenter, Cooper, Craddock, Crupper, Cyrus, Dawahare, DeFalaise, Denham, Deskins, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Foster, Givhan, Gray, Guenthner, Hardwick, Head, Holbrook, Holloway, Hughes, Hurst, Imes, Isler, Jones, Kenton, Kidd, King, LeMaster, Little, Mann, Mason, May, Maynard, McBee, McGill, Morris, Muncy, Nett, O'Brien, Overstreet, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Robinson, Romines, Sale, Schmidt, Siemens, Siler, Stephens, Stewart, Tobin, Thomas, R. Turner, Vincent, White, Wooden, Wright, Yates. Nays-0.

The motion that John Hardin be allowed the privilege of the floor was adopted.

Representative Yates requested that his name be removed from the printed copies of **HB 126,** since he was listed in error as the designated sponsor on behalf of the Interim Joint Committee on Labor and Industry.

The following Floor Amendments were filed to Bills:

SB 69: Floor Amendment No. 1 by Representative B. Richardson.

HB 188: Floor Amendment No. 1 by Representative Overstreet.

HB 26: Floor Amendment No. 1 by Representative Lindsay.

HB 179: Floor Amendment No. 1 to the Committee Substitute for **HB 179** by Representative Schmidt.

Orders of the Day

Representative B. Richardson moved that consideration of **HB 26, HB 16,** and **HB 21** be deferred and that they retain their position in Orders of the Day. Agreed.

HB 91 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Givhan moved that **HB 91** be passed.

On the roll call the vote was yeas 94-Ackerson, B. Adams, A. S. Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blandford, Blume, Boatwright, Brinkley, Brown, Bruce, Burnette, Carpenter, Clapp, Clarke, Cooper, Craddock, Crupper, Cyrus, Dawahare, DeFalaise, DeMarcus, Denham, Deskins, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Foster, Freeman, Givhan, Gray, Guenthner, Hancock, Hardwick, Head, Holbrook, Holloway, Hopkins, Hughes, Imes, Isler, Jones, Kenton, Kidd, King, Kleier, LeMaster, Lindsay, Little, Mann, Mason, May, Maynard, McBee, McGill, Morgan, Morris, Muncy, Nett, O'Brien, Overstreet, Pearl, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Robinson, Romines, Sale, Schmidt, Siemens, Siler, Stephens, Stewart, Tobin, Thomas, R. Turner, Vincent, Wells, White, Wible, Wooden, Wright, Yates. Nays-0.

HB 91 was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **HB 91** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 94 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Beshear moved that **HB 94** be passed.

On the roll call the vote was yeas 91-Ackerson, A. S. Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blandford, Blume, Boatwright, Brinkley, Brown, Bruce, Burnette, Carpenter, Clapp, Clarke, Cooper, Craddock, Crupper, Cyrus, Dawahare, DeFalaise, DeMarcus, Denham, Deskins, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Foster, Givhan, Gray, Guenthner, Hardwick, Head, Holbrook, Holloway, Hopkins, Hughes, Imes, Isler, Jones, Kenton, Kidd, King, Kleier, LeMaster, Lindsay, Little, Mann, Mason, May, Maynard, McBee, McGill, Morgan, Morris, Muncy, Nett, O'Brien, Overstreet, Pearl, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Robinson, Romines, Sale, Schmidt, Siemens, Siler, Stephens, Stewart, Tobin, Thomas, R. Turner, Vincent, Wells, White, Wible, Wooden, Wright, Yates. Nays 1-Hancock.

HB 94 was passed and the title agreed to.

Representative Beshear moved that the vote by which **HB 94** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 150 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Brinkley moved that **HB 150** be passed.

On the roll call the vote was yeas 92-Ackerson, B. Adams, A. S. Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blandford, Blume, Boatwright, Brinkley, Brown, Bruce, Burnette, Carpenter, Clapp, Clarke, Cooper, Craddock, Crupper, Cyrus, Dawahare, DeFalaise, DeMarcus, Deskins, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Floyd, Foster, Givhan, Gray, Guenthner, Hancock, Hardwick, Head, Holbrook, Holloway, Hopkins, Hughes, Imes, Isler, Jones, Kenton, Kidd, King, Kleier, LeMaster, Lindsay, Little, Mann, Mason, May, Maynard, McBee, McGill, Morgan, Morris, Muncy, Nett, O'Brien, Overstreet, Pearl, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Robinson, Romines, Sale, Schmidt, Siemens, Siler, Stewart, Tobin, Thomas, R. Turner, Vincent, Wells, White, Wible, Wooden, Wright, Yates. Nays 1-Stephens.

HB 150 was passed and the title agreed to.

Representative Brinkley moved that the vote by which **HB 150** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative B. Richardson moved that consideration of **HB 179,** with Committee Substitute attached thereto, be deferred and that it retain its position in Orders of the Day. Agreed.

Announcements

Representative Lindsay announced a meeting of the Committee on Counties and Special Districts, 9:00 a.m., January 22, 1976.

Adjournment

Representative B. Richardson moved that the House adjourn until 2:00 p.m., Thursday, January 22, 1976.

On the roll call the vote was yeas 69-B. Adams, A. S. Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blandford, Blume, Boatwright, Brinkley, Brown, Carpenter, Clarke, Cooper, Crupper, Cyrus, DeFalaise, DeMarcus, Denham, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Foster, Givhan, Head, Hughes, Isler, Jones, Kenton, King, Kleier, LeMaster, Lindsay, Little, Mann, Mason, May, McBee, McGill, Muncy, Nett, O'Brien, Overstreet, Priddy, Rattliff, B. Richardson, P. Richardson, Robinson, Romines, Sale, Schmidt, Siemens, Siler, Stewart, Tobin, R. Turner, Vincent, White, Wible, Wooden, Yates. Nays 9-Burnette, Deskins, Gray, Guenthner, Hancock, Holbrook, Holloway, Imes, Stephens.

The motion to adjourn was adopted.

THURSDAY, JANUARY 22, 1976

THIRTEENTH LEGISLATIVE DAY

The House was called to order by Speaker Kenton.

Prayer by Reverend Beryl Spross, Church of the Nazarene, Frankfort.

The roll was called. All present except Representatives Dawahare and Morgan.

Representative Isler moved that absent members be granted leave of absence in accordance with the prevailing rules of the House. Agreed.

Representative Craddock moved that the reading of the Journal of January 21, 1976, be dispensed with and the same approved. Agreed.

Senate Message

Announcing passage of **SB 68, SR 1,** and **SR 6.**

Introduction of Bills and Resolutions

HB 290, by Representative Lindsay: AN ACT relating to eminent domain.

HB 291, by Representatives Bruce, Morris and Brinkley: AN ACT relating to juveniles.

HB 292, by Representatives Dunn, Bennett, Bendl, Benson, Hardwick, Kleier, Maynard, O'Brien, Priddy, Romines, Wooden, and Yates. AN ACT relating to motor vehicle operator's licenses.

HB 293, by Representative DeFalaise: AN ACT relating to juvenile offenders.

HB 294, by Representatives LeMaster, Fitzgerald, Deskins, and Richards: AN ACT relating to family care homes.

HB 295, by Representatives Little and White: AN ACT relating to the Teachers' Retirement System.

HB 296, by Representatives Little and White: AN ACT relating to contractual status and dismissal of faculty members in state universities and colleges.

HB 297, by Representatives Little and Deskins: AN ACT relating to Public Utilities.

HB 298, by Representatives Holbrook and Brown: AN ACT relating to urban county government.

HB 299, by Representative Holbrook: AN ACT relating to pension funds in cities of the second class.

HB 300, by Representatives Blume, Bennett, Cyrus, Dietz, Donnermeyer, Gray, Isler, Mann, Priddy, Romines, and Siemens: AN ACT relating to public employes' collective bargaining.

HB 301, by Representative Donnermeyer: AN ACT relating to alcoholic beverages licenses.

HB 302, by Representatives Cooper and Cyrus: AN ACT relating to the motor vehicle usage tax.

Reference of Bills and Resolutions

Appropriations and Revenue: **HB 259, HB 277, HB 279, HB 280.**

Banking and Insurance: **HB 269.**

Business Organizations and Professions: **HB 258.**

Cities: **HB 268, HB 282.**

Counties and Special Districts: **HB 278.**

Education: **HB 260, HB 266, HB 267, HB 270, HB 281, HB 284.**

Elections and Constitutional Amendments: **HB 264, HB 272, HB 276, HB 283.**

Highways and Traffic Safety: **HB 287.**

Judiciary-Statutes: **HB 271, HB 261, HB 265, HB 274, HB 275, HB 285, HB 289.**

Labor and Industry: **HB 262, HB 263, HB 286.**

Public Utilities and Transportation: **HB 273.**

State Government: **HB 288.**

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Judiciary-Statutes: **HB 236, HB 265, HB 261, HB 155, HB 254.**

Education: **HB 70, HB 71, HB 75, HB 163, HB 164, HB 180, HB 193.**

Report of Committees

The Committee on Rules reported **HB 24, HB 55, HB 79** with Committee Amendment attached thereto, **HB 143** with Committee Amendment attached thereto, and **HB 209** have been posted for passage in Orders of the Day, January 23, 1976.

The Committee on Rules reported **HB 77** has been recommitted to the Committee on State Government to be considered along with other open records legislation.

The Committee on Agriculture and Natural Resources reported **HB 1**, with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 1, AN ACT relating to the sale of livestock and grain.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 355 is created to read as follows:

Before a secured party possessing a lien against livestock or grain that has been sold without the debt to the secured party being discharged may bring an action against the purchaser or selling agent of the livestock or grain, he shall pursue his remedy against his debtor to the point where a judgment is rendered on the merits or the suit is dismissed with prejudice.

The Committee Amendment to **HB 1** is as follows:

Amend printed copy of House Bill 1, page 1, line 4, by deleting "livestock or grain" and substituting therefor "any farm crop or livestock", and on lines 6 and 7 by deleting "livestock or grain" and substituting therefor "farm crop or livestock".

The Committee on Counties and Special Districts reported **HB 67** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 67, AN ACT relating to audits.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 43 is created to read as follows:

(1) The auditor shall develop uniform standards and procedures for conducting, and uniform formats for reporting, all audits of the accounts, books and papers of elected county or district officials performed under KRS 43.070(1)(b) or KRS 64.810. The auditor shall promulgate the uniform standards and procedures by administrative regulation according to KRS Chapter 13.

(2) Effective July 1, 1977, no person shall conduct an audit under KRS 43.070(1)(b) or KRS 64.810 which does not comply with the standards and procedures promulgated by the State Auditor of Public Accounts under subsection (1) of this section.

(3) The uniform audit standards and procedures promulgated by the auditor shall include but need not be limited to the requirement that each person performing an audit shall determine whether the county official is complying with the requirements of the uniform system of accounts adopted under KRS 68.210, whether the county official is accurately recording receipts by source and expenditures by payee, and whether or not each official is complying with all other legal requirements relating to the management of public funds by his office, including all publication requirements. The requirements for uniform formats for audit reports shall require that the format of reports for each category of county or district office shall be uniform.

(4) The auditor shall make informational copies of the regulations containing the audit standards and procedures available to interested persons at their request, and may charge a reasonable fee for such copies.

The Committee on Health and Welfare reported **HB 162, HB 178,** and **HB 194** with Committee Amendment attached thereto with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 162, AN ACT relating to funeral directing.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 316.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Association" means the Funeral Directors Association of Kentucky;

(2) "Board" means the state board of embalmers and funeral directors;

(3) "Branch establishment" means an establishment owned by a licensed funeral director in a place apart from his main establishment;[.]

(4)(a) "Funeral directing" means the practice of directing or supervising funerals for the practice of preparing dead human bodies for burial by any means, other than embalming, or the disposition of dead human bodies; the making of arrangements to provide for funeral services or the selling of funeral merchandise, or the making of financial arrangements for the rendering of said services, or the sale of such merchandise; or the provision or maintenance of a place for the preparation for disposition or for the care or disposition of dead human bodies. It shall also include the use of the word or term "funeral director," "undertaker," "mortician," "funeral parlor," "funeral chapel," or any other word or term from which can be implied the practice of funeral directing or the holding out to the public that one is a funeral director or engaged in a practice herein described;

(b) For the purposes of this chapter, the following shall be exempted from the definition of funeral directing:

1. The sale, maintenance and beautification of grave spaces;

2. The sale, installation and maintenance of permanent grave or crypt markers;

3. The opening and closing of a grave or crypt, the provision of the necessary grave or crypt equipment required for the final interment or entombment of casketed human bodies or cremated human remains;

4. The sale and maintenance of crypts constructed of permanent material as an integral part of a group of crypts which are constructed on the site of intended use in a cemetery; and

5. The sale and maintenance of above ground mausoleum crypts;

(5) "Funeral merchandise" means but is not limited to such items as caskets, coffins, vaults, or any other outer container in which a casket is placed for burial in the ground.

HB 178, AN ACT relating to smoking on school premises.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 438.050 is amended to read as follows:

Any person, except adult employes of the school system who smoke in a room on the school premises designated by the superintendent or principal for the purpose, who smokes [a cigarette] in any school building or any part of any building used for school purposes, or upon school grounds, while children are assembled there for lawful purposes, *except in areas designated by the superintendent or principal for the purpose,* shall be fined not less than one dollar nor more than five dollars.

HB 194, AN ACT relating to pharmacies.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 217 is created to read as follows:

Every pharmacy shall post a sign in a location easily seen by patrons at the counter where prescriptions are dispensed stating that "This pharmacy may be able to select a less expensive generic drug which is therapeutically equivalent to the one prescribed by your doctor unless you do not approve. The Commonwealth's Kentucky Drug Formulary Council has approved these therapeutically equivalent drug products. Ask your pharmacist." The printing on the sign shall be in block letters not less than one (1) inch in height. The Department for Human Resources shall publish and distribute the sign to each pharmacy within the Commonwealth.

The Committee Amendment to **HB 194** is as follows:

Amend printed copy of House Bill 194, page 1, line 8, by adding after the word "you" the words "or your doctor".

Calendar

HJR 12 and **HB 174** with Committee Amendment attached thereto taken from the Calendar and ordered read at length for the second time. Representative B. Richardson moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Motions, Petitions and Communications

Representative Fitzgerald moved the adoption of the following Legislative Citation No. 3:

The House of Representatives of the Commonwealth of Kentucky hereby congratulates Coach Bill Wilson and the members of the Scott County Cardinals football team for winning the State Class AA Football Championship of 1975. This body commends the members of the team and coaching staff for their winning efforts and extends best wishes for their continued success. (Sponsored by Representative Fitzgerald)

Agreed.

Representative Blume moved that the rules be suspended for the purpose of making a motion. Agreed.

Representative Blume moved that a report of the Committee on Labor be read. Agreed.

Report of Committee

The Committee on Labor and Industry reported **HB 104,** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 104, AN ACT relating to unemployment compensation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 341.380 is amended to read as follows:

(1) All benefits shall be paid through employment offices, or such other agencies as may be designated by regulations of the commission. Claims for all payments of benefits shall be made in accordance with regulations of the commission.

(2) The weekly benefit rate payable to an eligible worker for weeks of unemployment shall, except as provided in KRS 341.390, be an amount equal to one twenty-third (1/23) of his base-period wages in that calendar quarter of his base period in which such wages were highest, except that no worker's weekly benefit rate shall be less than twelve dollars ($12.00) nor more than the maximum rate as determined in accordance with subsection (3) of this section.

(3) Prior to the first day of July of each year the commissioner shall determine the average weekly wage for insured employment by dividing the average monthly employment, as obtained by dividing the total monthly employment reported by subject employers for the preceding calendar year by twelve (12), into the total wages reported by such employers for such calendar year and dividing by fifty-two (52). *Sixty-six and two-thirds per cent* [Fifty per cent (50%)] of the amount thus obtained, adjusted to the nearest multiple of one dollar ($1.00), shall constitute the maximum weekly benefit rate for those workers whose benefit year commences on or after the first day of July of such year and prior to the first day of July of the next following year.

(4) The maximum amount of benefits payable to any worker within any benefit year shall be the amount equal to whichever is the lesser of (a) twenty-six (26) times his weekly benefit rate or (b) one third (1/3) of his base-period wages, except that no worker's maximum amount shall be less than fifteen (15) times his weekly benefit rate. Such maximum amount, if not a multiple of one dollar ($1.00), shall be adjusted to the nearest multiple of one dollar ($1.00).

The Committee Substitute for **HB 104** is as follows:

HB 104, AN ACT relating to unemployment compensation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 341.380 is amended to read as follows:

(1) All benefits shall be paid through employment offices, or such other agencies as may be designated by regulations of the commission. Claims for all payments of benefits shall be made in accordance with regulations of the commission.

(2) The weekly benefit rate payable to an eligible worker for weeks of unemployment shall, except as provided in KRS 341.390, be an amount equal to one twenty-third of his base-period wages in that calendar quarter of his base period in which such wages were highest, except that no worker's weekly benefit rate shall be less than twelve dollars nor more than the maximum rate as determined in accordance with subsection (3) of this section.

(3) Prior to the first day of July of each year the commissioner shall determine the average weekly wage for insured employment by dividing the average monthly employment, as obtained by dividing the total

monthly employment reported by subject employers for the preceding calendar year by twelve, into the total wages reported by such employers for such calendar year and dividing by fifty-two. Fifty percent of the amount thus obtained, adjusted to the nearest multiple of one dollar, shall constitute the maximum weekly benefit rate for those workers whose benefit year commences on or after the first day of July of such year and prior to the first day of July of the next following year.

(4) The maximum amount of benefits payable to any worker within any benefit year shall be the amount equal to whichever is the lesser of (a) twenty-six times his weekly benefit rate or (b) one-third of his base-period wages, except that no worker's maximum amount shall be less than fifteen times his weekly benefit rate. Such maximum amount, if not a multiple of one dollar, shall be adjusted to the nearest multiple of one dollar.

(5) Notwithstanding (2), (3) and (4) above, a flat weekly benefit of ten dollars ($10) shall be added to the weekly benefit rate of each eligible worker, and further, the maximum amount of benefits payable to any worker shall be adjusted accordingly.

Orders of the Day

Representative B. Richardson moved that consideration of **HB 26, HB 16,** and **HB 21** be deferred and that they retain their position in Orders of the Day.

HB 179, with Committee Substitute attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Schmidt moved the adoption of the Committee Substitute for **HB 179.** Agreed.

Representative Schmidt moved the adoption of the following Floor Amendment to the Committee Substitute for **HB 179:**

Amend printed copy of Committee Substitute for House Bill 179, page 1, by inserting the following after the enacting clause before line 1.

"Section 1. A new section of KRS Chapter 150 is created to read as follows:

As used in this Act, "enclosed lands" means lands whose boundaries are identified by such methods which include but are not limited to fences, tree lines, crops or other monuments."

and on page 1, line 1, by changing "Section 1" to "Section 2"

and on page 1, line 15, by changing "Section 2" to "Section 3"

and on page 19, by changing "Section 1" to "Section 2"

and on page 2, line 3, by changing "Section 1" to "Section 2".

Agreed.

Representative Schmidt moved that **HB 179,** by way of Committee Substitute as amended, be passed.

On the roll call the vote was yeas 78-Ackerson, B. Adams, A. S. Adams, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blume, Blythe, Boatwright, Brinkley, Cyrus, DeFalaise, DeMarcus, Denham, Dietz, Donnermeyer, Dunn, Fitzgerald, Floyd, Foster, Givhan, Hancock, Hardwick, Head, Holbrook, Hopkins, Hughes, Hurst, Isler, Jones, Kenton, Kidd, King, LeMaster, Lindsay, Mann, May, Maynard, McBee, McBride, McGill, Morris, Muncy, Nett, O'Brien, Overstreet, Pearl, Priddy, Richards, B. Richardson, P. Richardson, Romines, Sale, Schmidt, Siemens, Siler, Stephens, Stewart, Tobin, Thomas, R. Turner, Vincent, Wells, Wible, Wooden, Wright, Yates. Nays 13-J. Allen, W. Allen, Burnette, Carpenter, Deskins, Doss, Freeman, Gray, Guenthner, Imes, Little, Mason, J. Turner.

HB 179, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Schmidt moved that the vote by which **HB 179,** by way of Committee Substitute as amended, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative Nett moved that the rules be suspended for Introduction of Bills and Resolutions. Agreed.

Introduction of Bills and Resolutions

HB 303, by Representatives Bennett, Dunn, Priddy, and Yates: AN ACT relating to Planning and Zoning.

HB 304, by Representative Cooper: AN ACT relating to motor vehicle licensing.

HB 305, by Representative Hopkins: AN ACT relating to liability of parents for assaults by their children.

HB 306, by Representatives Brown and Carpenter: AN ACT relating to tax exemptions on pension funds and pensions paid to police officers and fire fighters.

HB 307, by Representatives Romines, Bennett, Bruce, Burnette, Craddock, Floyd, Hardwick, Morris, Muncy, Pearl, and Siler: AN ACT relating to income tax.

HCR 23, by Representatives Wright, Holbrook, W. Allen, Bennett, Boatwright, Brinkley, Burnette, Cooper, Deskins, Dunn, Hardwick, Holloway, Hughes, Imes, Little, May, Morgan, O'Brien, Priddy, Romines, and Vincent: A CONCURRENT RESOLUTION petitioning the Congress of the United States to adopt a resolution submitting an amendment to the Constitution of the United States.

HJR 24, by Representatives Bevins, Beshear, LeMaster, A. S. Adams, J. Allen, Bendl, Blair, Brown, Carpenter, Craddock, Dawahare, Denham, Deskins, Donnermeyer, Doss, Fitzgerald, Freeman, Gay, Hopkins, Kidd, Kleier, Little, Mann, Maynard, McBee, Priddy, Romines, Sale, Schmidt, Siler, Tobin, Thomas, R. Turner, and Wright: A JOINT RESOLUTION authorizing and directing the State Department of Education to establish a public school kindergarten program.

HJR 25, by Representatives Nett, Siler, Denham, Little, Sale, and Stephens: A JOINT RESOLUTION directing the Legislative Research Commission to conduct a study of the statutes relating to education.

Representative B. Richardson moved that the rules be suspended for the purpose of making a motion. Agreed.

Representative B. Richardson moved that all requests to co-sponsor Bills and Resolutions be approved. Agreed.

The following requests were approved: Representative Bruce, **HB 191;** Representative Morris, **HB 191;** Representative Holbrook, **HB 47;** Representative Hughes, HB 166; Representative B. Richardson, **HB 114;** Representative Gray, **HB 128;** Representative Hardwick, **HB 161, HB 194, HB 197, HB 47, HB 2, HCR 6;** Representative Priddy, **HB 112;** Representative Gray, **HB 112;** Representative Bennett, HB 187; Representative Gray, **HB 187;** Representative Stewart, **HB 187;** Representative Priddy, **HB 187;** Representative Wooden, **HB 81;** Representative Wright, **HB 187.**

Adjournment

Representative B. Richardson moved that the House adjourn until 10:00 a.m., Friday, January 23, 1976.

On the roll call the vote was yeas 71-B. Adams, A. S. Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blandford, Blume, Boatwright, Carpenter, Clapp, Cooper, Craddock, Crupper, Cyrus, DeFalaise, DeMarcus, Denham, Dietz, Donnermeyer, Doss, Dunn, Floyd, Foster, Givhan, Hancock, Hardwick, Head, Holbrook, Holloway, Hughes, Isler, Kenton, Kidd, King, Kleier, LeMaster, Lindsay, Little, Mason, May, Maynard, McBee, McBride, McGill, Muncy, O'Brien, Overstreet, Priddy, Richards, B. Richardson, P. Richardson, Robinson, Sale, Siemens, Siler, Stephens, Stewart, Tobin, Thomas, Vincent, Wells, White, Wible, Wooden, Yates. Nays 7-Clarke, Deskins, Gray, Guenthner, Imes, Jones, Morris.

The motion to adjourn was adopted.

FRIDAY, JANUARY 23, 1976

FOURTEENTH LEGISLATIVE DAY

The House was called to order by Speaker Kenton.

Prayer by Reverend Beryl Spross, Church of the Nazarene, Frankfort.

The roll was called. All present except Representatives Carpenter, Cyrus, Dawahare, Morgan, Rattliff, Stewart, J. Turner, and R. Turner.

Representative Isler moved that absent members be granted leave of absence in accordance with the prevailing rules of the House. Agreed.

Representative Fitzgerald moved that the reading of the Journal of January 22, 1976, be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HB 308, by Representatives W. Allen and Deskins: AN ACT relating to mineral interests.

HB 309, by Representatives W. Allen, Burnette, and Vincent: AN ACT relating to public assistance.

HB 310, by Representative Freeman: AN ACT relating to telephone companies.

HB 311, by Representative Freeman: AN ACT relating to state and federal highways.

HB 312, by Representative Freeman: AN ACT relating to coal severance tax.

HB 313, by Representative Givhan: AN ACT relating to deductions from wages.

HB 314, by Representative Wible: AN ACT relating to inheritance taxes.

HB 315, by Representative Lindsay: AN ACT relating to driver training.

HB 316, by Representative Blume: AN ACT relating to state tax revenue and the disbursement of state tax revenue.

HB 317, by Representative Brown: AN ACT relating to tax exemptions on pension funds and pensions paid to police officers and fire fighters.

HB 318, by Representative Freeman: AN ACT relating to public utilities.

HR 26, by Representatives McBee, Donnermeyer, Crupper, DeFalaise, Dietz, Isler, King, Mann, and Schmidt: A RESOLUTION to adjourn the House of Representatives on January 23, 1976 in honor, memory and tribute to Tom Zaferes and Don Phillips.

HJR 27, by Representatives Wible, Nett, Clarke, and Robinson: A JOINT RESOLUTION directing a study to be made of state personnel processes to determine if, and by what methods, the speed and efficiency of personnel procedures and transactions can be improved, and making an appropriation therefor.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Business Organizations and Professions: **HB 29, HB 20.**

Banking and Insurance: **HB 269.**

Elections and Constitutional Amendments: **HB 233, HCR 6, HR 5.**

The Clerk announced the following Bills and Resolutions have been withdrawn from Committee consideration:

Cities: **HB 32, HB 46, HB 60, HB 42, HB 53, HB 43, HB 56.**

Report of Committees

The Committee on Rules reported **HB 99, HB 188, HB 136, HB 211, HB 213** with Committee Amendment attached thereto, **HB 230,** and **HJR 12** have been posted for passage on January 26, 1976.

The Committee on Rules reported that **HB 47, HB 50,** and **HB 57** have been recommitted to the Committee on Appropriations and Revenue for fiscal analysis.

Calendar

HB 1, with Committee Amendment attached thereto, **HB 67, HB 162, HB 178, HB 194** with Committee Amendment attached thereto, and **HB 104** with Committee Substitute attached thereto, taken from the Calendar and ordered read at length for the second time. Representative B. Richardson moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Motions, Petitions and Communications

Representative DeFalaise filed Floor Amendment No. 1 to **HB 16.**

Representative B. Richardson moved that when the House convenes on Monday, January 26, 1976, it do so at 2:30 p.m. Agreed.

Representative B. Richardson moved that when the House adjourns today it do so by voice vote. Agreed.

Representative McBee moved the adoption of the following **HR 26:**

HR 26, A RESOLUTION to adjourn the House of Representatives on January 23, 1976 in honor, memory and tribute to Tom Zaferes and Don Phillips.

WHEREAS, Tom Zaferes and Don Phillips gave their lives in the course of duty at the Greater Cincinnati Airport on June 15, 1975; and

WHEREAS, these two men were dedicated firemen of Local 2498 who will be sorely missed and long remembered by their many friends and fellow firefighters; and

WHEREAS, Tom Zaferes and Don Phillips were known not only for devotion to their profession but also for their efforts in working toward the betterment of their communities; and

WHEREAS, the actions of these young men exemplified the highest standards of courage and selflessness which were a credit to their families, profession, and communities;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That when the House does adjourn January 23, 1976, it does so in honor, memory, and tribute to Tom Zaferes and Don Phillips.

Section 2. That the Clerk of the House be, and hereby is, directed to send copies of this resolution to the families of these men.

Agreed.

Orders of the Day

HB 26, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Mann moved the adoption of the following Floor Amendment No. 1 to **HB 26:**

Amend printed copy of House Bill 26 page 8, line 14, by inserting ", *if any,*" following the word "*number*";

and on, line 19, by inserting ", *if any,*" following the word "*numbers*";

and on line 24, by inserting ", *if any,*" following the word "*number*";

and on page 9, lines 19 and 20 by deleting "*whose business address is identical with that of the registered office*";

and on page 10, line 15, by inserting ", *if any,*" following the word "*number*";

and on page 25, line 6, by inserting ", *if any,*" following the word "*number*";

and on page 29, line 8, by inserting "*or the name by which it has been doing business,*" following "shareholders,"

Agreed.

Representative Mann moved that **HB 26** as amended be passed.

On the roll call vote was yeas 83-Ackerson, B. Adams, A. S. Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blandford, Blume, Blythe, Boatwright, Brinkley, Brown, Bruce, Burnette, Clapp, Clarke, Cooper, Craddock, Crupper, DeFalaise, DeMarcus, Deskins, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Floyd, Foster, Givhan, Gray, Guenthner, Hancock, Hardwick, Head, Holbrook, Holloway, Hopkins, Hurst, Imes, Isler, Jones, Kenton, Kidd, King, LeMaster, Lindsay, Little, Mann, Mason, Maynard, McBee, McBride, McGill, Morris, Muncy, Nett, O'Brien, Overstreet, Pearl, Priddy, Richards, P. Richardson, Robinson, Romines, Sale, Schmidt, Siler, Stephens, Tobin, Thomas, Vincent, White, Wible, Wooden, Wright, Yates. Nays 1-Freeman.

HB 26 as amended was passed and the title agreed to.

Representative Mann moved that the vote by which **HB 26** as amended was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative B. Richardson moved that consideration of **HB 16** be deferred and that it retain its position in Orders of the Day. Agreed.

HB 21 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Thomas moved that **HB 21** be passed.

On the roll call vote was yeas 38-Ackerson, A. S. Adams, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blandford, Blume, Boatwright, Brinkley, Brown, Burnette, Clapp, Clarke, Craddock, Dietz, Donnermeyer, Doss, Gray, Hancock, Isler, Jones, Kenton, Kidd, King, Mann, Mason, McBee, McGill, O'Brien, Priddy, B. Richardson, Siemens, Thomas, Wible, Yates. Nays 44-B. Adams, J. Allen, W. Allen, Blair, Bruce, Cooper, Crupper, DeFalaise, DeMarcus, Denham, Deskins, Dunn, Fitzgerald, Foster, Freeman, Givhan, Guenthner, Holbrook, Holloway, Hopkins, Hurst, Imes, LeMaster, Lindsay, Little, May, Maynard, McBride, Morris, Muncy, Overstreet, Pearl, Richards, P. Richardson, Robinson, Sale, Schmidt, Siler, Stephens, Tobin, Vincent, White, Wooden, Wright.

HB 21 was defeated.

Representative B. Richardson moved that consideration of **HB 24** be deferred and that it retain its position in Orders of the Day. Agreed.

Representative B. Richardson moved that **HB 55** be recommitted to the Committee on Appropriations and Revenue. Agreed.

HB 79, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Kidd moved the adoption of the Committee Amendment No. 1 to **HB 79.** Agreed.

Representative Kidd moved that **HB 79** as amended be passed.

On the roll call the vote was yeas 90-Ackerson, B. Adams, A. S. Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blandford, Blume, Blythe, Boatwright, Brinkley, Brown, Bruce, Burnette, Clapp, Clarke, Cooper, Craddock, Crupper, DeFalaise, DeMarcus, Denham, Deskins, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Floyd, Foster, Freeman, Givhan, Gray, Guenthner, Hancock, Hardwick, Head, Holbrook, Holloway, Hopkins, Hurst, Imes, Isler, Jones, Kenton, Kidd, King, Kleier, LeMaster, Lindsay, Little, Mann, Mason, May, Maynard, McBee, McBride, McGill, Morris, Muncy, Nett, O'Brien, Overstreet, Pearl, Priddy, Richards, B. Richardson, P. Richardson, Robinson, Romines, Sale, Schmidt, Siemens, Siler, Stephens, Tobin, Thomas, Vincent, Wells, White, Wible, Wooden, Wright, Yates. Nays 0.

HB 79 as amended was passed and the title agreed to.

Representative Kidd moved that the vote by which **HB 79** as amended was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative Overstreet moved that the vote by which **HB 21** was defeated be reconsidered and said motion be postponed indefinitely.

On the roll call the vote was yeas 43-B. Adams, J. Allen, W. Allen, Blair, Blythe, Brown, Burnette, Cooper, Craddock, DeMarcus, Denham, Deskins, Dunn, Givhan, Guenthner, Hardwick, Holloway, Hopkins, Hurst, Imes, Jones, LeMaster, Lindsay, Little, Mason, May, Maynard, McBride, Muncy, Overstreet, Pearl, Richards, P. Richardson, Robinson, Schmidt, Siler, Stephens, Tobin, Vincent, White, Wooden, Wright, Yates. Nays 39-Ackerson, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blandford, Blume, Boatwright, Brinkley, Bruce, Clapp, Clarke, Crupper, DeFalaise, Dietz, Donnermeyer, Doss, Foster, Gray, Hancock, Head, Holbrook, Isler, Kenton, Kidd, King, Mann, McBee, McGill, Morris, Nett, B. Richardson, Sale, Siemens, Thomas, Wells, Wible.

The motion that the vote by which **HB 21** was defeated be reconsidered and said motion be postponed indefinitely was adopted.

HB 143, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Yates moved the adoption of Committee Amendment No. 1 to HB 143. Agreed.

Representative DeFalaise moved the adoption of the following Floor Amendment No. 2 to **HB 143:**

Amend printed copy of House Bill 143 page 1, line 16, by deleting the words "with the"

and on line 17 by deleting the word "defendant"

On the roll call the vote was yeas 27-J. Allen, W. Allen, Boatwright, Brinkley, Bruce, Clapp, Clarke, DeFalaise, DeMarcus, Deskins, Guenthner, Holbrook, Holloway, Hurst, Imes, Jones, Kenton, King, Lindsay, Mason, Morris, Nett, Pearl, Robinson, Vincent, White, Wright. Nays 59-Ackerson, B. Adams, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blandford, Blume, Blythe, Brown, Burnette, Cooper, Craddock, Crupper, Denham, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Floyd, Foster, Givhan, Gray, Hancock, Hardwick, Head, Hopkins, Isler, Kidd, Kleier, LeMaster, Little, Mann, May, Maynard, McBee, McBride, McGill, Muncy, O'Brien, Overstreet, Priddy, Richards, B. Richardson, P. Richardson, Romines, Sale, Siemens, Siler, Stephens, Tobin, Thomas, Wells, Wible, Wooden, Yates.

The Floor Amendment No. 2 to **HB 143** was rejected.

Representative Yates moved that **HB 143** as amended be passed.

On the roll call the vote was yeas 71-Ackerson, B. Adams, A. S. Adams, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blandford, Blume, Blythe, Brown, Burnette, Cooper, Craddock, Crupper, DeFalaise, Denham, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Floyd, Foster, Freeman, Givhan, Gray, Hancock, Hardwick, Head, Holbrook, Holloway, Hopkins, Imes, Isler, Kidd, King, Kleier, LeMaster, Little, Mann, Mason, May, Maynard, McBee, McBride, McGill, Muncy, Nett, O'Brien, Overstreet, Priddy, Richards, B. Richardson, P. Richardson, Romines, Sale, Schmidt, Siemens, Siler, Tobin, Thomas, Vincent, Wells, Wible, Wooden, Wright, Yates. Nays 18-J. Allen, W. Allen, Boatwright, Brinkley, Clapp, Clarke, DeMarcus, Deskins, Guenthner, Hurst, Jones, Kenton, Lindsay, Morris, Pearl, Robinson, Stephens, White.

HB 143 as amended was passed and the title agreed to.

Representative Yates moved that the vote by which **HB 143** as amended was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 209 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon it passage. Agreed by a majority of members elected.

On the roll call the vote was yeas 86-Ackerson, B. Adams, A. S. Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blandford, Blume, Blythe, Boatwright, Brinkley, Brown, Bruce, Burnette, Clapp, Clarke, Cooper, Craddock, Crupper, DeFalaise, DeMarcus, Denham, Deskins, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Floyd, Foster, Freeman, Givhan, Gray, Guenthner, Hardwick, Head, Holbrook, Holloway, Hopkins, Hurst, Imes, Isler, Jones, Kenton, Kidd, King, LeMaster, Lindsay, Little, Mann, Mason, May, Maynard, McBee, McBride, McGill, Morris, Muncy, Nett, O'Brien, Overstreet, Pearl, Richards, B. Richardson, P. Richardson, Robinson, Romines, Sale, Schmidt, Siemens, Siler, Tobin, Thomas, Vincent, Wells, White, Wible, Wooden, Wright, Yates. Nays 2-Hancock, Stephens.

HB 209 was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **HB 209** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative B. Richardson moved that the rules be suspended for the purpose of taking action on **HJR 12.** Agreed.

HJR 12 taken from Orders of the Day and ordered read as length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

On the roll call the vote was yeas 82-Ackerson, B. Adams, A. S. Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Bevins, Blair, Blandford, Blume, Boatwright, Brinkley, Brown, Bruce, Burnette, Clapp, Clarke, Cooper, Craddock, Crupper, DeFalaise, DeMarcus, Denham, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Floyd, Foster, Freeman, Givhan, Gray, Guenthner, Hancock, Hardwick, Head, Holbrook, Holloway, Hopkins, Hurst, Imes, Isler, Jones, Kenton, Kidd, King, Kleier, LeMaster, Lindsay, Little, Mann, Mason, May, Maynard, McBee, McBride, McGill, Morris, Muncy, Nett, O'Brien, Overstreet, Pearl, Richards, B. Richardson, P. Richardson, Romines, Sale, Schmidt, Siemens, Siler, Stephens, Tobin, Thomas, Vincent, White, Wible, Wooden, Yates. Nays 0.

HJR 12 was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **HJR 12** was passed by reconsidered and said motion be postponed indefinitely. Agreed.

Representative Brinkley moved that the rules be suspended for introduction of and action on **HR 28.** Agreed.

Representative Brinkley moved the adoption of the following **HR 28:**

HR 28, A RESOLUTION adjourning the House of Representatives in memory of Mr. Harold Peyton.
WHEREAS, Harold Peyton has served the citizens of Hopkins County over the last many years; and
WHEREAS, Mr. Peyton has dedicated his career activities to the education of the young people of Hopkins County; and
WHEREAS, Mr. Peyton most recently has distinguished himself as an outstanding superintendent of schools of Hopkins County; and
WHEREAS, Mr. Peyton met with an untimely death;
NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That when the House of Representatives adjourns this day, January 23, 1976, it does so in honor and memory of the late Harold Peyton.

HR 28 was adopted by voice vote.

Representative Blume moved that the rules be suspended for the purpose of posting bills for consideration. Agreed.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Labor and Industry: **HB 113, HB 114, HB 117, HB 120, HB 125.**

Judiciary-Statutes: **HB 271.**

Announcements

The following members requested to be recorded as voting as follows: Representative Bendl, "yea" on **HB 209;** Representative Blythe, "yea" on **HR 12;** Representative Deskins, "yea" on **HR 12;** Representative Beshear, "yea" on **HR 12.**

Representative B. Richardson moved that the rules be suspended for the purpose of making a motion. Agreed.

Representative B. Richardson moved that all requests to co-sponsor Bills and Resolutions be approved. Agreed.

The following requests to co-sponsor Bills and Resolutions were approved: Representative Romines, **HB 187;** Representative Donnermeyer, **HB 134;** Representative Craddock, **HB 236;** Representatives Mann and Thomas, **HB 143.**

Representative Lindsay filed Floor Amendment No. 1 to **HB 290.**

Representative Givhan announced a public hearing to be held by the Committee on Judiciary-Statutes for Wednesday, January 28, 1976, 10:00 a.m., Supreme Court Chamber.

Representative Dunn announced **HJR 7** will be discussed on February 4, 1976, 8:00 a.m., Room 9.

Adjournment

Representative B. Richardson moved that the House adjourn until 2:30 p.m., Monday, January 26, 1976. Agreed.

MONDAY, JANUARY 26, 1976

SIXTEENTH LEGISLATIVE DAY

The House was called to order by Speaker Kenton.

Prayer by Reverend John C. Chenault, First Christian Church, Frankfort.

The roll was called. All present except Representatives Freeman and Donnermeyer.

Representative Isler moved that absent members be granted leave of absence in accordance with the prevailing rules of the House. Agreed.

Representative Hughes moved that the reading of the Journal of January 23, 1976, be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HB 319, by Representatives Denham, Brown, Crupper, Foster, Head, P. Richardson, Sale, and Wells: AN ACT relating to weed control.

HB 320, by Representatives W. Allen, Deskins, Tobin, and Vincent: AN ACT relating to the common schools.

HB 321, by Representatives Denham, Brown, Crupper, Foster, Head, P. Richardson, Sale, and Wells: AN ACT relating to bureau of highways.

HB 322, by Representative Thomas: AN ACT relating to motor vehicles.

HB 323, by Representative Hughes: AN ACT relating to police radios.

HB 324, by Representative Hughes: AN ACT relating to the state sales and use taxes.

HB 325, by Representative Beshear: AN ACT relating to elections.

HB 326, by Representative Imes: AN ACT relating to state legislative districts.

HB 327, by Representative Imes: AN ACT relating to leave of absence credit in the Teachers' Retirement System.

HB 328, by Representatives DeMarcus, Muncy, Ackerson, Blair, Cooper, Hardwick, Rattliff, and Siler: AN ACT relating to income tax deductions for educational expenditures.

HB 329, by Representative Beshear: AN ACT relating to workmen's compensation.

HB 330, by Representatives Clarke, O'Brien, Benson, Holloway, Hopkins, Nett, Siemens, and Yates: AN ACT relating to educational accountability.

HB 331, by Representatives Nett, Guenthner, Ackerson, DeFalaise, Dunn, Hardwick, Holloway, Hughes, Priddy, Schmidt, Wooden, and Yates: AN ACT relating to financial assistance for students attending private educational institutions.

HB 332, by Representatives Romines, Imes, Burnette, and Hughes: AN ACT relating to public assistance.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following bills and resolutions:

Agriculture and Natural Resources: **HB 308.**

Appropriations and Revenue: **HB 302, HB 306, HB 307, HB 314, HB 316, HB 317.**

Business Organizations and Professions: **HB 301, SB 68.**

Cities: **HB 298, HB 299.**

Counties and Special Districts: **HB 303.**

Education: **HB 295, HB 296, HJR 24, HJR 25, HB 312.**

Elections and Constitutional Amendments: **HCR 23.**

Health and Welfare: **HB 294, HB 309.**

Highways and Traffic Safety: **HB 311, HB 315.**

Judiciary-Courts: **HB 291, HB 293.**

Judiciary-Statutes: **HB 290, HB 305.**

Labor and Industry: **HB 300, HB 313.**

Public Utilities and Transportation: **HB 292, HB 297, HB 304, HB 310, HB 318.**

State Government: **HJR 27, SCR 1, SCR 6.**

Report of Committees

The Committee on Rules reported **SB 69** and **HB 212** have been posted for passage in Orders of the Day on January 27, 1976.

Motions, Petitions and Communications

Representative B. Richardson moved that when the House adjourns it do so by voice vote. Agreed.

Representative B. Richardson moved that when the House adjourns today it do so until 2:00 p.m., Tuesday, January 27, 1976. Agreed.

Representative B. Richardson moved that **HB 185** be withdrawn from consideration. Agreed.

Representative Dunn moved that the rules be suspended for the purpose of posting bills and resolutions for consideration. Agreed.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following bills and resolutions have been posted for Committee consideration:

Judiciary-Statutes: **HB 145.**

Elections and Constitutional Amendments: **HJR 7.**

Motions, Petitions and Communications (continued)

Representative Hughes requested that he be recorded as voting as follows: HB 26, "yea"; **HB 21,** "nay"; **HB 143,** "yea", **HB 209,** "yea"; **HJR 12,** "yea".

Orders of the Day

Representative B. Richardson moved that **HB 16** be recommitted to the Committee on Business Organizations and Professions. Agreed.

Representative B. Richardson moved that consideration of **HB 24** be deferred and that it retain its position in Orders of the Day. Agreed.

HB 99 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Benson moved that **HB 99** be passed.

On the roll call the vote was yeas 81-Ackerson, B. Adams, A. S. Adams, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blandford, Blume, Blythe, Boatwright, Brown, Carpenter, Clapp, Clarke, Craddock, Crupper, Cyrus, Dawahare, DeFalaise, DeMarcus, Denham, Dietz, Doss, Dunn, Fitgerald, Floyd, Foster, Gay, Givhan, Gray, Guenthner, Hancock, Hardwick, Head, Holbrook, Hopkins, Hurst, Imes, Isler, Jones, Kenton, Kidd, King, LeMaster, Lindsay, Mann, May, McBee, McBride, McGill, Morgan, Morris, Muncy, Nett, O'Brien, Overstreet, Pearl, B. Richardson, P. Richardson, Robinson, Sale, Schmidt, Siemens, Siler, Stephens, Stewart, Tobin, Thomas, J. Turner, R. Turner, Vincent, White, Wible, Wooden, Wright, Yates. Nays 10-J. Allen, Brinkley, Burnette, Deskins, Freeman, Hughes, Little, Mason, Priddy, Richards.

HB 99 was passed and the title agreed to.

Representative Benson moved that the vote by which **HB 99** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 136 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Dunn moved that **HB 136** be passed.

On the roll call the vote was yeas 96-Ackerson, B. Adams, A. S. Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blandford, Blume, Blythe, Boatwright, Brinkley, Brown, Bruce, Burnette, Carpenter, Clarke, Cooper, Craddock, Crupper, Cyrus, Dawahare, DeFalaise, DeMarcus, Denham, Deskins, Dietz, Doss, Dunn, Fitzgerald, Floyd, Foster, Freeman, Gay, Givhan, Gray, Guenthner, Hancock, Hardwick, Head, Holbrook, Hopkins, Hughes, Hurst, Imes, Isler, Jones, Kenton, Kidd, King, LeMaster, Lindsay, Little, Mann, Mason, May, Maynard, McBee, McBride, McGill, Morgan, Morris, Muncy, Nett, O'Brien, Overstreet, Pearl, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Robinson, Romines, Sale, Schmidt, Siemens, Siler, Stephens, Stewart, Tobin, Thomas, J. Turner, R. Turner, Vincent, Wells, White, Wible, Wooden, Wright, Yates. Nays 0.

HB 136 was passed and the title agreed to.

Representative Dunn moved that the vote by which **HB 136** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative B. Richardson moved that consideration of **HB 188** be deferred and that it retain its position in Orders of the Day. Agreed.

HB 211 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

On the roll call the vote was yeas 93-Ackerson, B. Adams, A. S. Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blandford, Blume, Blythe, Boatwright, Brinkley, Brown, Bruce, Burnette, Carpenter, Clapp, Clarke, Cooper, Craddock, Crupper, Cyrus, Dawahare, DeFalaise, DeMarcus, Denham, Deskins, Dietz, Doss, Dunn, Fitzgerald, Floyd, Foster, Givhan, Gray, Guenthner, Hancock, Hardwick, Head, Holbrook, Hopkins, Hughes, Hurst, Imes, Isler, Jones, Kidd, King, LeMaster, Lindsay, Little, Mann, Mason, May, Maynard, McBee, McBride, McGill, Morgan, Morris, Muncy, Nett, O'Brien, Overstreet, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Robinson, Romines, Sale, Schmidt, Siemens, Siler, Stephens, Stewart, Tobin, Thomas, J. Turner, R. Turner, Vincent, Wells, White, Wible, Wooden, Wright, Yates. Nays 1-Pearl.

HB 211 was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **HB 211** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 213, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative B. Richardson moved the adoption of the Committee Amendment to **HB 213.** Agreed.

Representative DeMarcus moved that consideration of **HB 213** be deferred and that it retain its position in Orders of the Day.

On the roll call the vote was yeas 24-Ackerson, W. Allen, Blythe, Boatwright, Brinkley, Crupper, Dawahare, DeFalaise, DeMarcus, Denham, Guenthner, Hardwick, Hopkins, Hughes, Mason, Muncy, Overstreet, Priddy, Rattliff, Robinson, Romines, Schmidt, Siler, Wible. Nays 56-B. Adams, J. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Blair, Blandford, Blume, Brown, Bruce, Burnette, Carpenter, Clapp, Clarke, Craddock, Cyrus, Deskins, Doss, Dunn, Fitzgerald, Foster, Givhan, Gray, Hancock, Head, Imes, Isler, Kenton, King, Kleier, LeMaster, May, Maynard, McBee, McBride, McGill, Morgan, Morris, O'Brien, Pearl, B. Richardson, P. Richardson, Siemens, Stephens, Stewart, Tobin, J. Turner, R. Turner, Vincent, Wells, White, Wright, Yates.

The motion that consideration of **HB 213** be deferred and that it retain its position in Orders of the Day was rejected.

Representative B. Richardson moved that **HB 213** as amended be passed.

On the roll call the vote was yeas 82-B. Adams, A. S. Adams, J. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Blair, Blandford, Blume, Blythe, Boatwright, Brinkley, Brown, Bruce, Burnette, Carpenter, Clapp, Clarke, Cooper, Craddock, Cyrus, Dawahare, DeFalaise, Denham, Deskins, Dietz, Doss, Dunn, Fitzgerald, Floyd, Foster, Givhan, Gray, Hancock, Hardwick, Head, Holbrook, Hopkins, Hughes, Isler, Jones, Kenton, Kidd, King, Kleier, LeMaster, Lindsay, Little, Mann, Mason, May, Maynard, McBee, McBride, McGill, Morgan, Morris, Nett, O'Brien, Overstreet, Pearl, Priddy, Richards, B. Richardson, P. Richardson, Romines, Sale, Schmidt, Siemens, Stephens, Stewart, Tobin, J. Turner, Vincent, Wells, White, Wible, Wooden, Wright, Yates. Nays 10-Ackerson, W. Allen, DeMarcus, Guenthner, Imes, Muncy, Rattliff, Robinson, Siler, R. Turner.

HB 213 as amended was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **HB 213** as amended was passed be reconsidered and said motion postponed indefinitely. Agreed.

HB 230 taken from the Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative McBride moved that **HB 230** be passed.

On the roll call the vote was yeas 95-Ackerson, B. Adams, A. S. Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blandford, Blume, Blythe, Boatwright, Brinkley, Brown, Bruce, Burnette, Carpenter, Clapp, Clarke, Cooper, Craddock, Crupper, Cyrus, Dawahare, DeFalaise, DeMarcus, Denham, Deskins, Dietz, Doss, Dunn, Fitzgerald, Floyd, Foster, Givhan, Gray, Guenthner, Hancock, Hardwick, Head, Holbrook, Hopkins, Hughes, Hurst, Imes, Isler, Jones, Kenton, Kidd, King, LeMaster, Lindsay, Little, Mann, Mason, May, Maynard, McBee, McBride, McGill, Morgan, Morris, Muncy, Nett, O'Brien, Overstreet, Pearl, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Robinson, Romines, Sale, Schmidt, Siemens, Siler, Stephens, Stewart, Tobin, Thomas, J. Turner, R. Turner, Vincent, Wells, White, Wible, Wooden, Wright, Yates. Nays 0.

HB 230 was passed and the title agreed to.

Representative McBride moved that the vote by which **HB 230** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative Bruce moved that the rules be suspended for the purpose of introduction of and action on a resolution. Agreed.

HR 29, A RESOLUTION requesting Congress to take immediate action for the control of pest birds.

WHEREAS, the concentration of starlings, grackles, blackbirds, and other pest birds constitute a hazard to human health and safety, livestock, grain, and property in the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the United States Congress act at once to permit the use, on an emergency basis, of chemicals registered for bird control in areas affected by starlings, grackles, blackbirds, and other pest birds.

Section 2. That copies of this resolution be sent to Kentucky's congressional delegation, to the Secretary of the Interior, and to the Secretary of Agriculture.

Representative Bruce moved the adoption of **HR 29.**

On the roll call the vote was yeas 90-Ackerson, B. Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blandford, Blume, Blythe, Boatwright, Brinkley, Brown, Bruce, Burnette, Carpenter, Clapp, Cooper, Craddock, Crupper, Cyrus, Dawahare, DeFalaise, DeMarcus, Denham, Deskins, Dietz, Dunn, Fitzgerald, Floyd, Foster, Givhan, Gray, Guenthner, Hancock, Hardwick, Head, Holbrook, Holloway, Hopkins, Hughes, Hurst, Imes, Isler, Jones, Kenton, Kidd, King, Kleier, LeMaster, Lindsay, Little, Mann, Mason, May, Maynard, McBride, McGill, Morgan, Morris, Muncy, O'Brien, Overstreet, Pearl, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Robinson, Romines, Sale, Schmidt, Siemens, Siler, Stewart, Tobin, Thomas, J. Turner, R. Turner, Vincent, Wells, White, Wible, Wright, Yates. Nays 0.

HR 29 was adopted.

Announcements

The Speaker appointed the following Committee to wait upon the Governor: Representatives Blume, Morgan and Bruce.

Representative Overstreet filed Floor Amendment No. 2 to **HB 188.**

Representative May requested that he be recorded as voting "nay" on **HB 21.** Agreed.

Recess

Representative B. Richardson moved that the House recess to reconvene in the House Chamber of the Old State House at 4:00 p.m. today.

AMERICAN REVOLUTION BICENTENNIAL COMMEMORATIVE SESSION

OLD STATE HOUSE

At the appointed hour, the Speaker assumed the Chair and called the House to order.

The Honorable Thelma L. Stovall, Lieutenant Governor and President of the Senate, and the members of the Senate entered upon the floor of the House.

The Speaker recognized the Honorable Thelma L. Stovall, Lieutenant Governor and President of the Senate, and the members of the Senate.

Representative Bobby Richardson moved that the House resolve itself into a Committee of the Whole to go into Joint Session with the Senate. Agreed.

Joint Session

The Speaker vacated the Chair, whereupon the Honorable Thelma L. Stovall, Lieutenant Governor and President of the Senate, assumed the Chair and called the Joint Session to order.

Representative Bobby Richardson moved that the Joint Session of the House and Senate dispense with the call of the roll. Agreed.

Prayer by Reverend John C. Chenault, First Christian Church, Frankfort.

The Committee of the House appointed to join with a like committee of the Senate to wait upon the Governor and escort him to the House to address the Joint Session appeared with the Governor.

General W. R. Buster, Director of the Kentucky Historical Society, greeted the Joint Session and introduced the Honorable Julian M. Carroll.

Governor Carroll addressed the Joint Session as follows:

MADAME PRESIDENT
MR. SPEAKER
COLLEAGUES IN THE GENERAL ASSEMBLY
MY FELLOW KENTUCKIANS

We are indeed fortunate this afternoon to be able to convene in these historic chambers, commemorating the American Bicentennial and honoring the legislative heritage of Kentucky. In all our Commonwealth, there is no more appropriate place than this handsomely restored statehouse for the purpose for which we are met.

The authenticity of our surroundings reminds us that Kentuckians have long fostered a firm belief in a government of laws. As evidence, it can be truthfully claimed that the first laws governing Kentucky were enacted prior to America's Declaration of Independence.

On May 24, 1775, fourteen months prior to July 4, 1776 and only 35 days after the first shots of the revolutionary war at Lexington, Massachusetts, Kentucky's first law-making body met. Under a giant elm, near Ft. Boonesborough, eighteen men, representing Harrodstown, Boiling Spring, St. Asaph and Ft. Boonesborough enacted nine laws setting up a government for the colony. Daniel Boone was there, as was Squire Boone, James Harrod and Richard Calloway.

In 1792, nine years after the end of the Revolutionary War, Kentucky became the fifteenth state to join the union. Isaac Shelby was the overwhelming choice for governor. The first session of the General Assembly lasted twelve days. Its members received a dollar and a half per day. The Senate's first speaker was Alexander Scott Bullitt. Robert Breckinridge became the first speaker of the House.

As Kentucky's first General Assembly convened, the cornerstone of the new nation's capitol was being laid. Thomas Jefferson, the principal architect of the Declaration of Independence was organizing the

Democratic Party.

In 1830, this magnificant capitol welcomed the nineteenth session of the Kentucky General Assembly. For more than three quarters of a century, legislators debated, appealed, compromised and enacted laws for the Commonwealth.

On January 30, 1900, as he came to contest the Governor's election, Senator Goebel was felled by an assassin. The tree which caught his bullet still stands on these grounds.

When the fifty-ninth session of the General Assembly met in 1910, the new state capitol was being completed. Governor Augustus Willson occupied the second floor of the capitol in an office not much larger than a closet.

In this Bicentennial year, you are the members of the ninety-first session of the Kentucky General Assembly. You carry forward a tradition that predates the Commonwealth itself. You share the same spirit which moved pioneers like Daniel Boone to enact laws for the common good.

Kentucky's splendid legislative history grants us a hold on our relationship to the past. It grants a sense of continuity to our present agenda. It confers a feeling of unity of spirit and of purpose on us.

The record of the General Assembly, as a part of Kentucky's history contributes more than mere guidance for our present, however. In truth, it is the creator of our future.

We are heirs to the ideals and principles held by our forebearers.

For me, one principle overshadows all others, on our present course, we could have no surer guide than that virtue which guided the pioneers and the patriots.

If we, in Kentucky, shall find who we are and where we shall go, it will be through a course of common sense.

It has been noted that three kinds of sense exist: physical, common and non. The first, physical sense, each of us uses every minute of every day. The third kind, nonsense, is something reserved for babies, comedians and young folks in spring. But the second kind, common sense is an all but forgotten link to our past.

Common sense was the main virtue of colonial America and frontier Kentucky. When patriot Tom Paine wanted to rally his fellow citizens, he appealed to their common sense. That original American, Ben Franklin, made quite a name for himself with his reading public through the common sense of Poor Richard's Almanack.

But somewhere along America's road to democracy, the one virtue which sustained a revolution and nurtured the republic—his one virtue was left behind. By the mid-point of the twentieth century, common sense was nowhere to be seen, and hardly common at all.

In Kentucky, we have renewed our acquaintance with common sense. Despite pressures to go on without it, we have reached back into the legacy of our past, bringing common sense into the daily operations of Kentucky government. Let us resolve never to let it fall by the wayside again.

Within forty-eight hours, I shall once again request the opportunity to personally appear before a joint session of this ninety-first General Assembly. I shall present to you on Wednesday evening the proposed executive budget for the biennium.

Common sense will be the trademark of my budget proposal. It will contain the specifics for wisely spending the people's monies as they expect and deserve. As I again solicit your full examination of and recommendations on this fiscal agenda, I counsel you to do so with the same common sense in which it has been drawn.

Let us resolve that "common sense for the common good" will become the environment in which we work and that it too will be the one virtue for which we shall be remembered by future generations.

Join with me in building a better future on the firm, yet visible foundations of our heritage.

In the unfinished story of mankind, we have the exciting challenge to write a new, brighter chapter.

The citizens of Kentucky honor you, their representatives. I salute you, my colleagues and my partner.

Our trust is surely justified. You have a just claim to our confidence and to our support. For we, like you believe that man is indeed the rational, moral creation of God, capable of self-control for the larger good, that Kentuckians in all ages have believed him to be.

Representative Bobby Richardson moved that the Joint Session of the House and Senate be dissolved. Agreed.

The Speaker resumed the Chair.

Adjournment

Representative B. Richardson moved that the House adjourn until 2:00 p.m., Tuesday, January 27, 1976. Agreed.

TUESDAY, JANUARY 27, 1976

SEVENTEENTH LEGISLATIVE DAY

The House was called to order by Speaker Kenton.

Prayer by Reverend Robert Laughlin, First Presbyterian Church, Frankfort.

The roll was called. All present except Representative Kidd.

Representative Isler moved that absent members be granted leave of absence in accordance with the prevailing rules of the House. Agreed.

Representative Hughes moved that the reading of the Journal of January 26, 1976, be dispensed with and the same approved. Agreed.

Recess

Representative B. Richardson moved that the House recess for thirty minutes. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Introduction of Bills and Resolutions

HB 333, by Representatives Burnette, Imes, Boatwright, Clapp, Foster, Head, R. Turner, Vincent, and Wright: AN ACT relating to recitation of the Lord's Prayer and the pledge of allegiance in public elementary schools.

HB 334, by Representative B. Richardson: AN ACT relating to the definition of the term securities.

HB 335, by Representative B. Richardson: AN ACT relating to court judgments.

HB 336, by Representative B. Richardson: AN ACT relating to the reimbursement of the expenses of officers bringing federal prisoners into the Courts of the Commonwealth.

HB 337, by Representative B. Richardson: AN ACT relating to sewage system operators.

HB 338, by Representative B. Richardson: AN ACT relating to the operation of water treatment plants and sewer treatment plants.

HB 339, by Representative Blandford: AN ACT relating to bovine animals.

HB 340, by Representative Pearl: AN ACT relating to income tax.

HB 341, by Representatives Gray, Imes, Bennett, Bruce, Carpenter, Cyrus, Doss, Guenthner, Head, Holloway, Muncy, Priddy, and Siler: AN ACT relating to taxation.

HB 342, by Representative Tobin: AN ACT relating to licensing of motor vehicles.

HB 343, by Representative Maynard: AN ACT relating to school districts.

HB 344, by Representative Isler: AN ACT relating to the reporting of motor vehicle accidents.

HB 345, by Representatives Gray, Imes, Carpenter, and Doss: AN ACT relating to sales and use taxes.

HB 346, by Representatives Cyrus, Gray, Blume, Cooper, and Priddy: AN ACT relating to workmen's compensation.

HB 347, by Representatives White and Little: AN ACT relating to reassignment of teachers.

HB 348, by Representatives Hancock and Mason: AN ACT relating to state legislative districts.

HB 349, by Representative Benson: AN ACT relating to the prevention of take-over bids through the purchase of corporate securities.

HB 350, by Representatives Nett and Clarke: AN ACT relating to the auditor of public accounts.

HB 351, by Representative Maynard: AN ACT relating to sales and use taxes.

HB 352, by Representatives Stephens, Sale, and Hardwick: AN ACT relating to appointment of school superintendents.

HB 353, by Representative Thomas: AN ACT relating to police departments.

HB 354, by Representatives Blume, Benson, Guenthner, Holloway, Kidd, Kleier, Maynard, Nett, Siemens, Wright, and Wooden: AN ACT relating to community colleges.

HB 355, by Representatives Fitzgerald, LeMaster, Mann, and R. Turner: AN ACT relating to the closing of public offices.

HB 356, by Representative DeFalaise: AN ACT relating to attorney fees.

HB 357, by Representative Overstreet: AN ACT relating to audits of cooperative associations.

HB 358, by Representative Hurst: AN ACT changing the classification of the City of Bloomfield, in Nelson County.

HB 359, by Representative Blythe: AN ACT relating to the state fair board.

HR 30, by Representatives Burnette, Arnold, Boatwright, and Wright: A RESOLUTION commending national, state, and local organizations of the Future Farmers of America, and recognizing the week of February 21-28 as National FFA Week.

HR 31, by Representatives Burnette, Thomas, and Imes: A RESOLUTION to adjourn the House of Representatives in honor and memory of William Francis Pickard.

HJR 32, by Representatives Clarke, Schmidt, Denham, and Wible: A JOINT RESOLUTION directing the Legislative Research Commission to study privacy and confidentiality problems and laws relating to public and private records and information.

HR 33, by Representatives Hancock, Denham, Vincent, Floyd, Head, Jones, Dawahare, and Romines: A RESOLUTION commending U. S. Senator Walter "Dee" Huddleston.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Natural Resources: **HB 319.**

Appropriations and Revenue: **HB 324, HB 328.**

Education: **HB 320, HB 327, HB 330, HB 331.**

Elections and Constitutional Amendments: **HB 325.**

Health and Welfare: **HB 332.**

Highways and Traffic Safety: **HB 321, HB 322.**

Labor and Industry: **HB 329.**

State Government: **HB 323, HB 326.**

Report of Committees

The Committee on Cities reported **HB 40** and **HB 54** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 40, AN ACT relating to Home Rule for cities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 82 is created to read as follows:

The legislative body of any city is hereby authorized and empowered to exercise all the rights, powers, franchises, and privileges including the power to levy all taxes not in conflict with the constitution and statutes of this state now or hereafter enacted, which such legislative body shall deem requisite for the health, education, safety, welfare, and convenience of the inhabitants of such city, and for the effectual administration of all city government to the same extent as if the General Assembly had expressly granted and delegated to the city all the authority that is within the power of the General Assembly to grant to a city.

Section 2. A new section of KRS Chapter 82 is created to read as follows:

Nothing in this Act shall be construed to abolish or curtail any existing statute, or any power or rights heretofore conferred upon or delegated to such city, or to any board, body, or officer thereof, nor to restrict the powers of the General Assembly to pass laws regulating matters of state concern or provide by general laws for the government of cities.

Section 3. A new section of KRS Chapter 82 is created to read as follows:

The powers herein granted shall be in addition to all other powers granted to cities by other provisions of law.

HB 54, AN ACT relating to gasoline tax revenue.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 177.365 is amended to read as follows:

(1) On and after July 1, 1973, *one-ninth (1/9)* [one-eighteenth (1/18)] of all amounts received from the imposition of the taxes provided for in KRS 138.220, 138.565, 138.660 and 234.320 shall be set aside by the bureau of highways for the construction, reconstruction and maintenance of urban roads and streets and for no other purpose.

(2) As used in this section unless the context requires otherwise "construction," "reconstruction," and "maintenance" mean the supervising, inspecting, actual building, and all expenses incidental to the construction, reconstruction, or maintenance of a road or street, including planning, locating, surveying, and mapping or preparing roadway plans; acquisition of rights-of-way, relocation of utilities, lighting and the elimination of other hazards such as roadway grade crossings, and all other items defined in the bureau of highways, design, operations, and construction manuals.

(3) "Urban roads" mean all public ways lying within the limits of the unincorporated urban place as described by the bureau of census tracts.

(4) "Streets" mean all public ways which have been designated by the incorporated city as being city streets and said streets lying within the boundaries of an incorporated city.

The Committee on Education reported **HB 193, HB 180, HB 72,** and **HB 75** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 193, AN ACT relating to school attendance districts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 159.070 is amended to read as follows:

Each school district shall constitute a separate attendance district unless two (2) or more contiguous school districts, with the approval of the state board of education, unite to form one (1) attendance district. Controversies arising in attendance districts relating to attendance matters shall be submitted to the state board of education for settlement, and in case an agreement suitable to all parties cannot be reached the state board of education may dissolve a united district. In case of dissolution, each school district involved may unite with other contiguous school districts in forming a united attendance district or may act as a separate attendance district. *Within the appropriate school district attendance area, students shall be permitted to attend the public school that is chosen by their parents or legal guardians.*

HB 180, AN ACT relating to higher education.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 164.290 is amended to read as follows:

(1) The state colleges formerly designated as Eastern Kentucky State College, Morehead State College, Murray State College, Western Kentucky State College, *Northern Kentucky College,* and Kentucky State College may be known and recognized as Eastern Kentucky University, Morehead State University, Murray State University, Western Kentucky University, *Northern Kentucky University,* and Kentucky State University.

(2) Kentucky State University located at Frankfort, Kentucky, is a land-grant state institution and, as such, all the provisions of KRS Chapter 164, with the exception of the provisions of KRS 164.320 concerning the appointment of the initial board of regents, applying to the other four regional universities shall likewise apply to Kentucky State University.

Section 2. KRS 164.293 is amended to read as follows:

(1) There is hereby recognized as established and maintained a state *university* [college] in this commonwealth to be designated and known as Northern Kentucky *University* [College], the location of which shall be determined by the council on public higher education on the advice of a group of twelve (12) persons from the northern section of the state, to be appointed by the governor, not more than six (6) of whom shall belong to the same political party.

(2) All the provisions of KRS chapter 164, applying to the state universities shall apply to Northern Kentucky *University* [College].

Section 3. KRS 164.295 is amended to read as follows:

The *six (6)* [five (5)] state universities shall provide:

(1) Baccalaureate programs of instruction;

(2) Upon approval of the council on public higher education, graduate programs of instruction at the masters-degree level in education, business, and the arts and sciences, specialist degrees and programs beyond the masters-degree level to meet the requirements for teachers, school leaders and other certified personnel;

(3) Research and service programs directly related to the needs of their primary geographical areas;

(4) And, may provide programs of a community college nature in their own community comparable to those listed for the University of Kentucky community college system, as provided by this chapter.

Section 4. KRS 164.320 is amended to read as follows:

(1) The board of regents for Eastern Kentucky University, Morehead State University, Murray State University, Western Kentucky University, Kentucky State University and Northern Kentucky *University* [College] shall each consist of eight members appointed by the governor, one non-voting member of the teaching faculty, and one member of the student body of the respective university or college. The voting members of the board shall select a chairman annually.

(2) The terms of appointed members shall be for four years, and until their successors are appointed and qualified. Such appointments shall be made by the governor within thirty days after the expiration of the term of each member. If the governor should fail to make any such appointment within thirty days after the expiration of the term of any member, the remaining members of the board of regents of the particular university or college whose terms shall not have expired, shall make such appointment within sixty days after

the expiration of such term.

(3) Not more than two appointed members of any board shall be residents of one county; nor more than four of the appointed members of any board shall belong to the same political party. Membership on the board shall not be incompatible with any other state office.

(4) Appointments to fill vacancies shall be made in the same manner and within the same time after the occurrence of the vacancy as regular appointments. The person appointed shall hold the position for the unexpired term only.

(5) Each appointed member of the board shall, at the first meeting following his appointment, take an oath to faithfully discharge his duties.

(6) Each member of the board shall serve for the term for which he is appointed and until his successor is appointed and qualified.

(7) The non-voting faculty member shall be a teaching or research member of the faculty of his respective university or college of the rank of assistant professor or above. He shall be elected by secret ballot by all faculty members of his university or college of the rank of assistant professor or above. The faculty member shall serve for a term of three years and until his successor is elected and qualified. The faculty member shall be eligible for re-election, but he shall not be eligible to continue to serve as a member of such board if he ceases being a member of the teaching staff of the university or college. Elections to fill vacancies shall be for the unexpired term in the same manner as provided for original election.

(8) The student member shall be the president of the student body of the university or college on whose board of regents he is to serve. If the president of the student body is not a full-time student who maintains permanent residency in the Commonwealth of Kentucky, a special election shall be held to select a full-time student who does maintain permanent residency in this Commonwealth as the student member.

Section 5. KRS 164.597 is amended to read as follows:

Upon prior concurrence of the board of trustees of the University of Kentucky and the board of regents of the Northern Kentucky *University* [College], the Northern Community College at Covington shall be operated by the board of regents of the Northern Kentucky *University* [College] and shall no longer be considered part of the University of Kentucky community college system. The board of regents of the Northern Kentucky *University* [College] shall provide programs of a community college nature at Northern Community College at Covington comparable to those listed for the University of Kentucky community college system, as provided in this chapter.

Section 6. KRS 164.599 is amended to read as follows:

All property of the Northern Community College of Covington and all property and educational equipment of the University of Kentucky designated for use by the Northern Community College at Covington shall become the property of the Northern Kentucky *University* [College]. Any funds accruing to the Northern Community College at Covington not previously expended while operated by the University of Kentucky as the result of any contract or agreement with any agency or instrumentality of the United States government, the commonwealth of Kentucky or local units of government shall be transferred to the Northern Kentucky *University* [College].

HB 72, AN ACT relating to the immunization against rubella.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 214.034 is amended to read as follows:

Except as otherwise provided in KRS 214.036, all parents, guardians, and other persons having care, custody or control of any child shall have the child immunized against diphtheria, tetanus, poliomyelitis, pertussis, *rubeola,* and *rubella* [measles] in accordance with immunization schedules established by regulations of the Department for Human Resources. Such persons shall also have booster immunizations administered to the child in accordance with the regulations of the Department for Human Resources.

Section 2. KRS 158.035 is amended to read as follows:

Except as otherwise provided in KRS 214.036, no child shall be eligible to enroll as a student in any public or private elementary or secondary school without first presenting a certificate from a duly licensed medical or osteopathic physician stating that the child has been immunized against diphtheria, tetanus, poliomyelitis, *rubeola,* and *rubella* [measles] in accordance with the provisions of this section and KRS 214.010, 214.020, 214.032 to 214.036 and 214.990 and the regulations of the Secretary for Human Resources. The governing body of private and public schools shall enforce the provisions of this section.

HB 75, AN ACT relating to the Teacher's Retirement System.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 161.220 is amended to read as follows:

As used in KRS 161.220 to 161.710:

(1) "Retirement system" means the arrangement provided for in KRS 161.230 to 161.710 for payment of allowances to teachers.

(2) "Retirement allowance" means the amount annually payable during the course of his natural life to a member who has been retired by reason of service.

(3) "Disability allowance" means the amount annually payable to a member retired by reason of disability.

(4) "Teacher" means any member of a local retirement system who became a member of the state teachers' retirement system according to the provisions of Acts, 1938, (1st Ex. Sess.), ch. 1, paragraph 49; and any regular or special teacher, supervisor or administrator occupying a position requiring certification by the state department of education or a professional level of training, as a condition of employment, and who is employed by public boards, institutions, or agencies as follows:

(a) Local boards of education;

(b) Eastern Kentucky University, Kentucky State University, Morehead State University, Murray State University, Western Kentucky University, and any community or junior colleges established under the control of any of the above;

(c) State and area vocational schools, Kentucky school for the blind, and Kentucky school for the deaf;

(d) The state department of education, Kentucky authority for educational television, and such members of the administrative staff of the teachers' retirement system of the state of Kentucky as the board of trustees may designate by regulation; and

(e) Regional cooperative organizations formed by local boards of education and/or other public educational institutions listed in this subsection, for the purpose of providing educational services to the participating organizations.

(f) All full-time members of the staffs of the Kentucky association of school administrators, Kentucky education association, Kentucky high school athletic association and the Kentucky school boards association who were members of the Kentucky teachers' retirement system at the time of employment by the association in the event that the board of directors of the respective association petition to be included. The board of trustees of the Kentucky teachers' retirement system may designate by regulation whether part-time members of the petitioning association are to be included. The state shall make no contributions on account of such members, either full-time or part-time. The association shall make the employer's contributions as required herein. The provisions of this paragraph shall be applicable to such members in the employ of the associations on or subsequent to July 1, 1972.

(5) "Present teacher" means any teacher who was a teacher on or before July 1, 1940, and became a member of the retirement system created by Acts 1938, (1st Ex. Sess.), ch. 1, on the date of the inauguration of the system or within one year after that date, and any teacher who was a member of a local teacher retirement system in the public elementary or secondary schools of the state on or before July 1, 1940, and continued to be a member of such system until he, with the membership of the local retirement system, became a member of the state teachers' retirement system or who becomes a member under the provisions of KRS 161.470 (4).

(6) "New teacher" means any teacher not a present teacher.

(7) "Prior service" means the number of years during which the member was a teacher in Kentucky prior to July 1, 1941, except that not more than thirty years' prior service shall be allowed or credited to any teacher.

(8) "Subsequent service" means the number of years during which the teacher is a member of the teachers' retirement system after July 1, 1941 *plus unused accumulated sick leave credited to the teacher under the provisions of KRS 161.155.*

(9) "Annual salary" means the average annual salary which the member has received for his service as a teacher in the public schools of Kentucky for five years or for as many years if less than five, prior to July 1, 1941, except that any salary which exceeds two thousand dollars shall be considered two thousand dollars. Any salary subsequent to July 1, 1941, for service in a covered position in Kentucky on which the member has made contributions shall be the actual arithmetic average salary for the five highest years.

(10) "Annual compensation" means the contractual salary and additions thereto received by a member as compensation for services as a teacher in the public schools of Kentucky during a fiscal year before any deductions.

(11) "Age of retirement" means the age attained as of July 1 of the fiscal year in which retirement is to be effective.

(12) "Age of entrance" means the age attained at the last birthday of any member at the time of the establishment of the retirement system, if the member was a member subject to membership in the system at that time. Otherwise it means the age attained as of July 1 of the fiscal year in which he first becomes a member of the retirement system. Any birthday occurring on February 29 shall be considered as occurring on February 28.

(13) "Regular interest" means interest at three percent per annum.

(14) "Accumulated contributions" means the contributions of a member to the teachers' savings fund for retirement annuity plus accrued regular interest.

(15) "Annuitant" means a person who receives a retirement allowance or a disability allowance.

(16) "Local retirement system" means any teacher retirement or annuity system created in any public school district in Kentucky in accordance with the laws of Kentucky.

(17) "Fiscal year" means the twelve-month period from July 1 to June 30.

(18) "Public schools" means the schools and other institutions mentioned in subsection (4) of this section.

(19) "Dependent" as used in KRS 161.520 and 161.525 means a person who was receiving, at the time of death of the member, at least one-half of the support from the member for maintenance, including board, lodging, medical care and like costs.

(20) "Last earned annual compensation" means the gross compensation before any deduction earned by the member for the last full payroll period, multiplied by the number of payroll periods in the member's contract year.

(21) "Active contributing member" means a member currently making contributions to the teachers' retirement system or who made such contributions in the next preceding fiscal year.

(22) "Regular teacher, supervisor, or administrator", when used to determine eligibility for membership in the retirement system, means a professional employe holding a position which requires services on a continuing basis equal to at least seven-tenths of normal full-time service on a daily or weekly basis.

Section 2. KRS 161.500 is amended to read as follows:

(1) The board of trustees shall fix by regulations how much service in any year is equivalent to one year of service, but in no case, *excepting subsequent service added under subsection (2) of this section,* shall more than one year of service be credited for all service in one fiscal year. Service rendered for the regular school year in any district or institution shall be equivalent to one year's service.

(2) Unused accumulated sick leave accredited to a teacher under the provisions of KRS 161.155 shall be added to the actual years of service. Fractional years of subsequent service for such accumulated sick leave shall be calculated in the same manner as fractional years of service for all other types of service credit.

The Committee on Highways and Traffic Safety reported **HB 85** and **HB 87** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 85, AN ACT relating to roads, streets and highways.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 178 is created to read as follows:

As used in this Act, "General Public" means any person other than an owner, agent, or tenant of property that abuts any road, street, or highway.

Section 2. A new section of KRS Chapter 178 is created to read as follows:

Whenever any private road, street, or highway in an unincorporated area in a county containing a city of the first class has been used by the general public openly, continuously, and notoriously for a period of at least fifteen (15) years, it shall be implied that such road, street, or highway has been dedicated to the county road system.

Section 3. A new section of KRS Chapter 178 is created to read as follows:

Upon application by any person or corporation, public or private, the fiscal court shall determine whether the conditions of section two (2) have been satisfied. If the court's determination is in the affirmative, it shall notify the county works department and other appropriate agencies or departments that the road, street, or highway has been dedicated to the county road system.

Section 4. A new section of KRS Chapter 178 is created to read as follows:

When the fiscal court has made a determination in accordance with the provisions of section three (3) that the road, street, or highway has been dedicated to the county road system, the county shall have a fee simple title to the part of the road, street, or highway which the plat, filed in the office of the county court clerk, indicates as being for street purposes.

Section 5. A new section of KRS Chapter 178 is created to read as follows:

The county works department shall maintain a road, street, or highway which it has acquired pursuant to the provisions of this Act in the same manner as it maintains any other county road.

Section 6. A new section of KRS Chapter 178 is created to read as follows:

The provisions of this Act do not apply to any private road, street, or highway while it exists as a deadend passway. At the time such passway is no longer a deadend passway, the provisions of this Act shall become applicable.

Section 7. KRS 178.010 is amended to read as follows:

(1) As used in this chapter, unless the context otherwise requires:

(a) "Construction" includes reconstruction and improvement;

(b) "County roads" are public roads which have been accepted by the fiscal court of the county as a part of the county road system *or private roads, streets, or highways which have been acquired by the county pursuant to this Act.* "County roads" includes necessary bridges, culverts, sluices, drains, ditches, waterways, embankments or retaining walls. "County roads" also includes roads or segments of roads which have been eliminated from the state primary road system by order of the commissioner of highways and transferred to the counties pursuant to KRS 178.030;

(c) "Hard surface road" means a road the surface of which is asphalt, brick, stone block, macadam, concrete, gravel or other material of equal merit.

(2) Nothing in this chapter shall be construed to take from the jurisdiction or control of the legislative body of any incorporated city, any road, bridge, landing or wharf, or any other thing exclusively under the jurisdiction or control of such city.

(3) Nothing in this chapter shall prevent any county court from acquiring land by gift for public purposes.

HB 87, AN ACT relating to vehicles.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 189.580 is amended to read as follows:

(1) *The operator of any vehicle, whose vehicle, vehicle load, or vehicle equipment which is involved in an accident resulting in injury to or death of any person or resulting only in damage to a vehicle or other property which is driven or attended by any person* [Any person who, while operating a vehicle on a highway, runs against or over, any other person, vehicle or personal property, in possession of any other person in such a manner as to injure the other person or damage the property,] shall immediately stop and ascertain the extent of the injury or damage and render *reasonable assistance* [such assistance as may be needed], *including the carrying, or making of arrangments for the carrying, of such person to a physician, surgeon, or hospital for medical or surgical treatment if it is apparent that such treatment is necessary, or if such carrying is requested by the injured person* [including the carrying of the person or occupants of the vehicle to the nearest medical aid, if carrying is requested by the person struck, or by any occupant]. The operator or person having or assuming authority of the operator, or ownership of the vehicle, shall give the occupant of the vehicle, or person struck, if requested, the registration number of the vehicle, if any, and also the names and addresses of the owner, the occupants and operator. The total names need not exceed five in number.

(2) *The operator of any vehicle which collides with or is involved in an accident with any vehicle or other property which is unattended resulting in any damage to such other vehicle or property shall immediately stop and shall then and there either locate and notify the operator or owner of such vehicle or other property of his name, address and the registration number of the vehicle he is driving or shall attach securely in a conspicuous place in or on such vehicle or other property a written notice giving his name, address and the registration number of the vehicle he is driving, or shall file a report with the local police department.*

(3) [(2)] The operator of a vehicle involved in an accident *in subsection (1) or (2) above* resulting in injury to or death of any person or in which total property damage of two hundred dollars ($200) or more is sustained shall, within *twenty (20)* [ten (10)] days, report the matter in writing to the department of transportation.

(4) [(3)] Whenever the operator of a vehicle is physically incapable of making a required accident report and there was another occupant in the vehicle at the time of the accident who is capable of making a report, that occupant shall make the report or cause it to be made.

(5) [(4)] The State Police may require the operator to file supplemental reports whenever the original report required by subsection *(3)* [(2)], is, in its opinion, insufficient. It may also require witnesses of accidents to render reports to the State Police.

The Committee on State Government reported **HB 141,** with Committee Amendment attached thereto, and **HB 217** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 141, AN ACT relating to nominations to the National Register of Historic Places and making an appropriation for notices concerning such nominations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 171 is created to read as follows:

(1) Prior to deciding whether to nominate a district, site, building or object to the National Register of Historic Places created by the National Historic Preservation Act of 1966, the Kentucky historic preservation review board and the Kentucky heritage commission shall afford persons desiring to comment on the proposed nomination the opportunity to be heard by the board, in accordance with subsection (2) of this section.

(2) The Kentucky heritage commission shall give public notice of the proposed nomination of any district, site, building or object to the National Register of Historic Places before such nomination is presented to the Kentucky historic preservation review board. The notice shall be published in the county in which the district, site, building or object is located in accordance with KRS Chapter 424, except that the notice shall be published only one time, at least thirty (30) days prior to the review board's consideration of the nomination. The notice shall state the time and place of the meeting at which the nomination is to be considered and shall indicate that any person desiring to be heard by the historic preservation review board shall be afforded the opportunity to comment on the proposed nomination.

Section 2. To carry out the purposes of this Act, there is appropriated to the Kentucky heritage commission out of the general fund in the state treasury the sum of $3,600 for the fiscal year 1976-77 and the sum of $3,600 for the fiscal year 1977-78.

The Committee Amendment to **HB 141** is as follows:

Amend printed copy of House Bill 141, page 2, by deleting lines 8 through 12 in their entirety.

HB 217, AN ACT relating to peace officers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 61.300 is amended to read as follows:

(1) No person shall serve as a deputy sheriff, deputy constable, patrol or other nonelective peace officer or deputy peace officer, unless:

(a) He is a citizen of the United States and is twenty-one (21) years of age or over;

(b) He has resided in the county wherein he is appointed to serve for a period of at least two (2) years;

(c) He has never been convicted of [or is under indictment for] a crime involving moral turpitude;

(d) He has not within a period of two (2) years hired himself out, performed any service, or received any compensation from any private source for acting, as a privately paid detective, policeman, guard, peace officer or otherwise as an active participant in any labor dispute, or conducted the business of a private detective agency or of any agency supplying private detectives, private policemen or private guards, or advertised or solicited any such business in connection with any labor dispute;

(e) He has filed his photograph with the county clerk of the county in which he is to serve, together with his affidavit stating his full name, age and residence address and that he is not prohibited from serving by this section.

(2) The photograph so filed with the county clerk shall constitute a public record.

(3) Any person who exercises any of the functions of a nonelective peace officer or deputy peace officer in violation of the provisions of this section shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500), or imprisoned in the county jail for not more than six (6) months, or both.

The Committee on Rules reported **HB 67** has been posted for passage in Orders of the Day, January 28, 1976.

The Committee on Rules reported **HB 104,** with Committee Substitute attached thereto, has been recommitted to the Committee on Appropriations and Revenue for fiscal analysis.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Counties and Special Districts: **HB 303.**

Elections and Constitutional Amendments: **SB 15, HCR 23.**

Highways and Traffic Safety: **HB 86, HB 157, HB 315.**

Labor and Industry: **HB 300, HB 187.**

State Government: **HB 58, HB 77, HB 147, HB 149, HB 207, HB 225, HB 240, HB 288, HJR 3, HCR 14, HJR 27.**

Senate Message

Announcing passage of **SR 14, HR 21.**

Motions, Petitions and Communications

Representative Burnette moved the adoption of the following **HR 31:**

HR 31, A RESOLUTION to adjourn the House of Representatives in honor and memory of William Francis Pickard.

WHEREAS, William Francis Pickard, a man, an officer and a gentleman, has rendered that most precious gift in devotion to his fellows; and

WHEREAS, from the far west in Fulton, the place of his beginning, to the rushes of the Big Sandy, all Kentuckians are saddened by the loss of this fine young man; and

WHEREAS, in this age of permissiveness and the erosion of traditional values William Francis Pickard remained as a beacon of strength, exhibiting so splendid an example for all to follow; and

WHEREAS, the House of Representatives of Kentucky is filled with a sense of loss and sorrow, and deeply regrets the passing of Trooper William Francis Pickard;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That when the House of Representatives adjourns this day, Tuesday, January 27, 1976, it does so in honor and memory of William Francis Pickard.

Section 2. That the Clerk be directed to transmit a copy of this resolution to the family of William Francis Pickard.

HR 31 was adopted by voice vote.

Representative Overstreet filed Floor Amendment No. 3 to **HB 188.**

Representative Stephens moved that **HB 312** be taken from the Committee on Education and reassigned to the Committee on Appropriations and Revenue. Agreed.

Representative Hancock moved the adoption of the following **HR 33:**

HR 33, A RESOLUTION commending U. S. Senator Walter "Dee" Huddleston.

WHEREAS the United States has great need to develop energy sources free from the influence of foreign governments;

WHEREAS the Commonwealth of Kentucky is fortunate in having an abundant supply of coal and is the number one coal producing state in the Union;

WHEREAS the production of coal in the Commonwealth imposes an unfair and unreasonable burden upon the financial resources of the State by causing severe damage to highways;

WHEREAS the United States government has not seen fit to provide the Commonwealth with monies to compensate for the damage caused by the production of coal which is used for the benefit of all Americans; and

WHEREAS the provision of federal funds to help repair and maintain Kentucky's haul roads will increase coal production thus hastening the time when America becomes energy independent.

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

That United States Senator Walter "Dee" Huddleston be commended for offering an amendment in the U. S. Senate which has drawn needed attention to the financial plight of those states which are being required to make unfair and unreasonable sacrifices to meet the nation's energy needs.

Senator Huddleston is further commended in that his efforts have resulted in the members of the U. S. Senate Public Works Committee agreeing to hold hearings to consider legislation that would provide federal funds to help maintain and rebuild roads used for hauling coal in Kentucky.

HR 33 was adopted by voice vote.

Representative Priddy moved that her name be withdrawn as a co-sponsor of **HB 225.** Agreed.

The Speaker announced the appointment of the following members to the Return Ball Committee: Representative McBride, Chairman; Representative Tobin, Co-Chairman.

Orders of the Day

Representative B. Richardson moved that consideration of **HB 24** and **HB 188** be deferred and that they retain their position in Orders of the Day. Agreed.

SB 69 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative B. Richardson moved the adoption of the following Floor Amendment No. 1 to **SB 69:**

Amend printed copy of Senate Bill 69, page 1, line 5, by adding after the word "furnish" "until January 1, 1978".

Agreed.

Representative B. Richardson moved that **SB 69** as amended be passed.

On the roll call the vote was yeas 80-B. Adams, A. S. Adams, J. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blandford, Blume, Blythe, Boatwright, Brinkley, Brown, Bruce, Burnette, Carpenter, Clapp, Clarke, Craddock, Cyrus, Dawahare, Denham, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Foster, Gay, Givhan, Gray, Guenthner, Hancock, Head, Hopkins, Hughes, Imes, Isler, Jones, Kenton, King, Kleier, LeMaster, Lindsay, Mann, Mason, Maynard, McBee, McBride, McGill, Morgan, Morris, Muncy, Nett, O'Brien, Overstreet, Pearl, Priddy, Richards, B. Richardson, P. Richardson, Romines, Sale, Siemens, Stephens, Stewart, Tobin, Thomas, J. Turner, R. Turner, Vincent, Wells, White, Wible, Wooden, Wright, Yates. Nays 12-Ackerson, W. Allen, DeFalaise, DeMarcus, Deskins, Hardwick, Holbrook, Holloway, Hurst, Little, Robinson, Siler.

SB 69 as amended was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **SB 69** as amended was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 212 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

On the roll call the vote was yeas 96-Ackerson, B. Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blandford, Blume, Blythe, Boatwright, Brinkley, Brown, Bruce, Burnette, Carpenter, Clapp, Clarke, Cooper, Craddock, Crupper, Cyrus, Dawahare, DeFalaise, DeMarcus, Denham, Deskins, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Floyd, Foster, Freeman, Givhan, Gray, Guenthner, Hancock, Hardwick, Head, Holbrook, Holloway, Hopkins, Hughes, Hurst, Imes, Isler, Kinton, King, Kleier, LeMaster, Lindsay, Little, Mann, Mason, May, Maynard, McBee, McBride, McGill, Morgan, Morris, Muncy, Nett, O'Brien, Overstreet, Pearl, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Robinson, Romines, Sale, Schmidt, Siemens, Siler, Stephens, Stewart, Tobin, Thomas, J. Turner, R. Turner, Vincent, Wells, White, Wible, Wooden, Wright, Yates. Nays 0.

HB 212 was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **HB 212** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Announcements

The Committee Chairmen announced the following meetings:

Appropriations and Revenue, 9:00 a.m., Wednesday, January 28, 1976.

Elections and Constitutional Amendments, 9:00 a.m., Wednesday, January 28, 1976.

Adjournment

Representative B. Richardson moved that the House adjourn until 6:00 p.m., Wednesday, January 28, 1976.

On the roll call the vote was yeas 75-B. Adams, A. S. Adams, J. Allen, W. Allen, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blume, Blythe, Boatwright, Brinkley, Burnette, Carpenter, Cooper, Craddock, Crupper, Cyrus, Dawahare, DeFalaise, DeMarcus, Deskins, Dietz, Doss, Dunn, Fitzgerald, Floyd, Foster, Freeman, Gay, Givhan, Hancock, Hardwick, Head, Holbrook, Holloway, Hughes, Imes, Isler, Kenton, King, Lindsay, Mann, Mason, May, Maynard, McGill, Morgan, Muncy, Nett, O'Brien, Overstreet, Pearl, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Robinson, Sale, Schmidt, Siemens, Siler, Stephens, Tobin, Thomas, J. Turner, R. Turner, Vincent, White, Wible, Wooden, Yates. Nays 4-Gray, Guenthner, Kleier, LeMaster.

The motion to adjourn was adopted.

WEDNESDAY, JANUARY 28, 1976

EIGHTEENTH LEGISLATIVE DAY

The House was called to order by Speaker Kenton.

Prayer by Dr. Robert Laughlin, First Presbyterian Church, Frankfort.

The roll was called. All present except Representatives Blume and Little.

Representative Isler moved that absent members be granted leave of absence in accordance with the prevailing rules of the House. Agreed.

Representative Hughes moved that the reading of the Journal of January 27, 1976, be dispensed with and the same approved agreed.

Introduction of Bills and Resolutions

HB 360, by Representative Wible: AN ACT relating to conflicts of interest of public officers and employes.

HB 361, by Representatives McBee and White: AN ACT relating to railroad policemen.

HB 362, by Representative Blandford: AN ACT relating to agricultural seeds.

HB 363, by Representatives Dunn, Bennett, Deskins, Doss, Fitzgerald, Floyd, Hardwick, Holloway, O'Brien, Priddy, Romines, Vincent, and Yates: AN ACT relating to the Legislative Research Commission.

HB 364, by Representative B. Richardson: AN ACT relating to interest on judgments.

HB 365, by Representative B. Richardson: AN ACT relating to the presumption of abandonment of certain property held by a bank, financial organization or business association.

HB 366, by Representatives Gray and Imes: AN ACT relating to board of education members.

HB 367, by Representatives Gray, Muncy, Cyrus, King, Priddy, and Siler: AN ACT relating to deductions from wages of employes.

HB 368, by Representatives LeMaster, Fitzgerald, Benson, Blair, Carpenter, and Siemens: AN ACT relating to small winery license.

HB 369, by Representatives B. Adams, Foster, Richards, and Vincent: AN ACT relating to water districts.

HB 370, by Representative Givhan: AN ACT relating to indigent persons accused of serious crime.

HB 371, by Representative Morgan: AN ACT relating to licensing of hearing aid specialists.

HB 372, by Representative Imes: AN ACT relating to elevators.

HB 373, by Representatives Arnold, Blandford, Denham, and Stephens: AN ACT relating to minimum wage.

HR 34, by Representatives Guenthner, Imes, Ackerson, Burnette, and B. Richardson: A RESOLUTION urging the U.S. Congress to prohibit federal funding of the Peoples Bicentennial Commission.

HR 35, by Representatives Morris and Bruce: A RESOLUTION requesting a greater effort in controlling drug traffic around military bases.

Senate Message

Announcing passage of **SCR 17.**

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Natural Resources: **HB 337, HB 338, HB 339, HR 30.**

Appropriations and Revenue: **HB 340, HB 341, HB 345, HB 351.**

Banking and Insurance: **HB 334.**

Business Organizations and Professions: **HB 349, HB 357.**

Cities: **HB 353, HB 358.**

Counties and Special Districts: **HB 355.**

Education: **HB 333, HB 347, HB 352, HB 354.**

Health and Welfare: **HB 343.**

Judiciary-Courts: **HB 335, HB 356.**

Judiciary-Statutes: **HB 344.**

Labor and Industry: **HB 346.**

Public Utilities and Transportation: **HB 342.**

State Government: **HB 336, HB 348, HB 350, HB 359, HJR 32.**

Report of Committees

The Committee on Appropriations and Revenue reported **HB 4,** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 4, AN ACT relating to the funding of the public schools.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 157A is created to read as follows:

It is the intention of the General Assembly in adopting this Act to encourage local supplement of the funds distributed from the public common school foundation program fund by providing districts with substantially equal power to generate funds for this purpose through a program of district power equalization.

Section 2. A new section of KRS Chapter 157A is created to read as follows:

(1) There is hereby established a public common school district power equalization program fund consisting of appropriations for distribution to districts in accordance with the provisions of this Act.

(2) The resources of the public common school district power equalization program fund shall be paid into the state treasury, and shall be drawn out or appropriated only in aid of public schools as provided by statute.

Section 3. A new section of KRS Chapter 157A is created to read as follows:

On or before January 1 of each year, the Department of Revenue shall determine the equalized fair cash value, as of the previous January 1, of all property subject to taxation for school purposes in each district, and shall certify such information to the superintendent of public instruction for use in determining the amount of state power equalization support for each district.

Section 4. A new section of KRS Chapter 157A is created to read as follows:

(1) The superintendent of public instruction shall calculate the amount of state power equalization support for each district in the following manner:

(a) Determine the equalized fair cash value of property per pupil in each district by dividing the district's equalized fair cash value of property by its average daily attendance.

(b) Determine the current maximum local discretionary revenue yield per pupil in each district by multiplying the district's equalized fair cash value of property per pupil by the district's total school tax rate, less the rate required by KRS 157A.100 for local effort, and less any special voted building fund tax rate and any sinking fund tax rate.

(c) Determine the guaranteed local discretionary revenue yield per pupil in each district by multiplying the equalized fair cash value of property per pupil of the county district with the highest fair cash value of property per pupil in the state by each district's total school tax rate, less the rate required by KRS 157A.100 for local effort, and less any special voted building fund tax rate and any sinking fund tax rate.

(d) Multiply the difference between each district's current maximum local discretionary revenue yield per pupil (as determined in subparagraph (b) of this section) and its guaranteed local discretionary revenue yield per pupil (as determined in subparagraph (c) of this section) by its average daily attendance. The result shall be the amount of state power equalization support for each district.

(2) Equalized fair cash value of property, school tax rates, and average daily attendance as used in this section shall be the prior year's equalized fair cash value of property, school tax rates and average daily attendance.

Section 5. A new section of KRS Chapter 157A is created to read as follows:

(1) If, when the amount of state power equalization support for each district has been calculated, it is found that the funds appropriated for the district power equalization program are insufficient to provide the amount of support, the superintendent of public instruction shall determine the maximum tax rate which the available fund will support, and the superintendent will fix that rate as the maximum rate to be supported by the district power equalization program. The rate to be supported by the district power equalization program shall always be an identical rate for all districts.

(2) The tax rate supported by the district power equalization program shall at no time exceed twenty cents (20¢).

Section 6. A new section of KRS Chapter 157A is created to read as follows:

(1) Notwithstanding any statutory provisions to the contrary, the board of education of any district in any year in which the total school tax rate, less the rate required by KRS 157A.100 for local effort, and less any special voted building fund tax rate and any sinking fund tax rate, is less than the maximum rate supported by the district power equalization program as provided for in Sections 4 and 6 of this Act, may request the local tax levying authority to increase the rate in any amount not to exceed the maximum rate supported by the district power equalization program after compliance with the following:

(a) The district board of education shall give notice of the proposed request for a rate increase. Notwithstanding any statutory provisions to the contrary, notice shall be given by causing to be published at least one (1) time in a newspaper of general circulation in the district, or in any other good faith manner if there is no such newspaper, the fact that such request is being proposed. Such advertisement shall state that the district board of education will meet at a place and on a date fixed in the advertisement, not earlier than one (1) week and not later than two (2) weeks from the date of the advertisement, for the purpose of hearing comments and complaints regarding the proposed increase and explaining the reasons for such proposal.

(b) The district board of education shall conduct a public hearing at the place and on the date advertised for the purpose of hearing comments and complaints regarding the proposed tax rate increase and explaining the reasons for the proposal.

(2) The local tax levying authority shall levy the rate requested by the district board of education subject to the limitations imposed by this Act. All rate increases levied as a result of the provisions of this Act shall be effective July 1 following the action by the tax levying authority. The rate shall be levied from year to year until the district board of education requests a change in the rate. If the change requested is a reduction in the rate, the tax levying authority shall reduce the rate, and the advertisement and public hearing requirements of this Act shall not apply.

Section 7. A new section of KRS Chapter 157A is created to read as follows:

For each school year the Department of Finance, on the certification of the superintendent of public instruction, shall draw warrants as specified hereinafter on the state treasurer for the amount of the state power equalization support due each district. Checks shall be issued by the state treasurer and transmitted to the Department of Education for distribution to the proper officials of the several districts when the districts have fully complied with the school laws and rules and regulations of the state board of education. The superintendent of public instruction shall determine on or before April 1 of each year the tentative allotment of school funds to which each district is entitled under the provisions of this Act. Beginning August 1 of each year and on the first of each month thereafter for seven (7) successive months, one-twelfth (1/12) of each district's share of the state power equalization support shall be distributed. On or before March 1 of each year, the superintendent of public instruction shall determine the exact amount of the state power equalization support to which each district is entitled and the remainder of the amount due each district for the year shall be distributed in four (4) equal installments beginning March 15 and for three (3) successive months thereafter.

Section 8. A new section of KRS Chapter 157A is created to read as follows:

(1) No district shall be eligible for the state power equalization support provided for in this Act during any fiscal year in which the district board of education specifies in its budget for that fiscal year a total school tax rate, less the rate required by KRS 157A.100 for local effort, and less any special voted building fund tax rate and any sinking fund tax rate, which would produce less revenue than was produced by the application of that district's total school tax rate for fiscal year 1975-76, less the rate required by KRS 157.380 for local tax effort for fiscal year 1975-76, and less any special voted building fund tax rate and any sinking fund tax rate for fiscal year 1975-76, to that district's 1975 assessment specified under KRS 160.460(3).

(2) Not later than July 1 of each year, the superintendent of public instruction shall calculate for each district the amount of revenue that the district's proposed total school tax rate, less the rate required by KRS 157A.100 for local effort, and less any special voted building fund tax rate and any sinking fund tax rate, would produce when applied to the district's current assessment specified under KRS 160.460(3). The superintendent of public instruction shall compare the revenue so calculated, with the revenue produced by the application of each district's total school tax rate for fiscal year 1975-76, less the rate required by KRS 157.380 for local tax effort for fiscal year 1975-76, and less any special voted building fund tax rate and any sinking fund tax rate for fiscal year 1975-76, to the district's 1975 assessment specified under KRS 160.460(3).

(3) The superintendent of public instruction shall not certify to the Executive Department for Finance and Administration for payment of the state power equalization support for any fiscal year a school district which has become ineligible for such support as provided in subsection (1) above.

Section 9. KRS 132.020 is amended to read as follows:

(1) An annual ad valorem tax for state purposes of *thirty-one and one-half cents (31-1/2¢)* [one and one-half cents (1 1/2¢)] upon each one hundred dollars ($100) of value of all real property directed to be assessed for taxation, and one and one-half cents (1 1/2¢) upon each one hundred dollars ($100) of value of all tobacco directed to be assessed for taxation, and twenty-five cents (25¢) upon each one hundred dollars ($100) of value of all money in hand, shares of stock, notes, bonds, accounts and other credits, whether secured by mortgage, pledge or otherwise, or unsecured, except as otherwise provided in subsection (2) of this section, and one and one-half cents (1 1/2¢) upon each one hundred dollars ($100) of value of unmanufactured agricultural products, one-tenth of one cent ($.001) upon each one hundred dollars ($100) of value of all farm implements and farm machinery owned by a person actually engaged in farming and used in his farm operations, one-tenth of one cent ($.001) upon each one hundred dollars ($100) of value of all livestock and domestic fowls, *fifteen cents (15¢) upon machinery and products in course of manufacture, of individuals or corporations actually engaged in manufacturing, and their raw material actually on hand at their plant for the purpose of manufacture, fifteen cents (15¢) upon commercial radio, television and telephonic equipment directly used or associated with electronic equipment which broadcasts electronic signals to an antenna, fifteen cents (15¢) upon property which has been certified as a pollution control facility as defined in KRS 224.850,* and *forty-five cents (45¢)* [fifteen cents (15¢)] upon each one hundred dollars ($100) of value of all other property directed to be assessed for taxation shall be paid by the owner or person assessed except as provided in subsection (2) of this section and KRS 132.030, 132.050, 132.200, 136.270, 136.300, 136.320 and other sections providing a different tax rate for particular property.

(2) Effective on and after January 1, 1968, an annual ad valorem tax for state purposes of one and one-half cents (1 1/2¢) upon each one hundred dollars ($100) of value shall be paid upon the following classes of intangible personal properties, when such intangible personal properties have not acquired a taxable situs without this state:

(a) Accounts receivable, notes, bonds, credits, nondomestic bank deposits, and any other intangible property rights arising out of or created in the course of regular and continuing business transactions substantially performed outside this state.

(b) Patents, trade-marks, copyrights and licensing or royalty agreements, relating thereto.

(c) Shares of capital stock of any affiliated company as defined in subsection (3) of this section and notes, bonds, accounts receivable and all other intercompany intangible personal property due from such company.

(3) "Affiliated company" shall mean a parent corporation or subsidiary corporation, as defined in KRS 141.205 (3), and any corporation principally engaged in business outside the United States in which the owner or the person assessed directly or indirectly owns or controls not less than ten per cent (10%) of the outstanding voting stock.

(4) With respect to the intangible properties taxed pursuant to subsection (2) of this section, no other ad valorem tax shall be levied by the state or any county, city, school or other taxing district on such intangible properties, or directly or indirectly against the owner with respect thereto.

Section 10. KRS 136.270 is amended to read as follows:

(1) An annual tax of *eighty-five and one-half cents (85 1/2¢)* [forty-seven and one-half cents (47 1/2¢)] on each one hundred dollars ($100) of their fair cash value is hereby imposed upon the shares of stock of state banks and trust companies incorporated under the laws of this state, and of national banks doing business in this state. The tax shall be paid to the sheriff of the county annually by the banks and trust companies, for and on behalf of the owners of the shares of stock. The tax shall be for state purposes only, and in lieu of all other taxes upon such shares by the state, or any county, city or other taxing district, except as provided in subsection (2), (3) and (4) of this section.

(2) The county in which the bank or trust company is located may impose a tax of not exceeding nineteen cents (19¢) on the one hundred dollars ($100) of the fair cash value of the shares.

(3) The city in which the bank or trust company is located may impose a tax of not exceeding nineteen cents (19¢) on the one hundred dollars ($100) of the fair cash value of the shares.

[(4) A tax not exceeding thirty-eight cents (38¢) on the one hundred dollars ($100) of the fair cash value of the shares may be imposed for school purposes in the district in which the bank or trust company is located.]

Section 11. KRS 136.320 is amended to read as follows:

(1) Each life insurance company incorporated under the laws of and doing business in Kentucky shall value as of January 1 and report to the Department of Revenue by July 15, 1966, and by April 1 each year thereafter, on forms prescribed by the Department of Revenue, the following:

(a) The fair cash value of the company's intangible personal property, hereinafter referred to as "capital," consisting of all money in hand, shares of stock, notes, bonds, accounts and other credits, exclusive of due and deferred premiums, whether secured by mortgage, pledge or otherwise, or unsecured.

(b) The fair cash value of the company's intangible personal property exempt from taxation by law.

(c) The aggregate amount of company's reserves, reduced by the amount of due and deferred premiums, maintained in accordance with the applicable provisions of KRS 304.6-040 and KRS 304.6-130 to 304.6-180, on all outstanding policies and contracts supplementary thereto.

(d) Such other information as may be required by the Department of Revenue to accurately determine the fair cash value of each company's "taxable capital" and "taxable reserves."

(2) Based on information supplied by each company and such other information as may be available, the department of revenue shall value each company's "taxable capital" and "taxable reserves" as follow:

(a) "Taxable capital" shall be determined by deducting "taxable reserves" from "capital," less exempt intangible personal property.

(b) "Taxable reserves" shall be determined by multiplying the aggregate amount of reserves as computed in subsection (1) (c) of this section by the percentage determined by dividing "capital," less exempt intangible personal property, by "capital," including exempt intangible personal property.

(3) An annual tax of *seventy cents (70¢)* [forty cents (40¢)] on each one hundred dollars ($100) of the fair cash value of "taxable capital" and one-tenth of one cent ($.001) on each one hundred dollars ($100) of the fair cash value of "taxable reserves" shall be imposed for state purposes. The tax shall be in lieu of all excise, license, occupational, or other taxes imposed by the state, county, city, or other taxing district, except as provided in subsections (4), (5), and (6) of this section.

(4) The county in which the principal office of the company is located may impose a tax of fifteen cents (15c) on each one hundred dollars ($100) of "taxable capital."

(5) The city in which the principal office of the company is located may impose a tax of fifteen cents (15c) on each one hundred dollars ($100) of "taxable capital."

[(6) The local school district in which the principal office of the company is located may impose a tax of thirty cents (30¢) on each one hundred dollars ($100) of "taxable capital."]

(6) [(7)] The department of revenue shall by September 1 each year bill each company for the state taxes. It shall immediately certify to the county court clerk of the county in which the principal office of the company is located the value of "taxable capital" subject to local taxation. The county court clerk shall

prepare and deliver a bill to the sheriff for collection of taxes collectible by the sheriff and shall certify the value to all other collecting officers of districts authorized to levy a tax.

(7) [(8)] Each company's real and tangible personal property shall be subject to taxation at fair cash value by the state, county, school, and other taxing districts in which such property is located in the same manner and at the same rates as all other property of the same class.

(8) [(9)] Taxes on property subject to taxation under this section shall be subject to the same discount and penalties as provided in KRS 134.020 and shall be collected in the same manner as taxes on property locally assessed, except that the state tax on the "taxable capital" and "taxable reserves" shall be collected directly by the department of revenue.

(9) [(10)] Any taxpayer subject to taxation under this section may protest in the manner provided in KRS 131.110.

Section 12. KRS 157A.030 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Add-on weights" means those weights for exceptional children described in subsection (2) of KRS 157A.060 and for vocational education in subsection (3) of KRS 157A.060 which are added to basic program weights described in subsection (1) of KRS 157A.060.

(2) "Adjusted pupil units" means the number of units obtained from multiplying pupil units by rank and experience factor by total pupil units of a district.

(3) "Average daily attendance" means the aggregate days attended by pupils in a public common school, divided by the number of days the school was in session.

(4) "Average daily membership" means the aggregate days of membership of pupils in a public common school divided by the number of days the school was in session.

(5) "Board" means the board of education of any county or independent school district.

(6) "District" means any public common school district as defined by law.

(7) "Elementary school" means a school consisting of grades kindergarten through eight, or any combination of grades within this range, as determined by the plan of organization for schools authorized by the district board.

(8) "Full-time equivalent" means one pupil in attendance in a district for a minimum of 1,800 minutes per week. All pupils enrolled are in membership in grades K-12. Full-time equivalents for those enrolled in each vocational category and each exceptional children category are obtained by dividing the attendance minutes per week in the program or class by a minimum of 1,800 minutes or the number of minutes per week that school is in session if greater than 1,800 minutes.

(9) "Kindergarten" means a group or class that is organized to provide educational experience for children for the year immediately preceding the first grade.

(10) "Percentage of attendance" means the aggregate days attendance divided by the aggregate days membership.

(11) "Public common school foundation program fund" means the fund created by KRS 157A.040 for use in financing education in public elementary, secondary and vocational schools.

(12) "Pupil unit" means full-time equivalent attendance times weights of the category of need.

(13) "Regulations of the state board of education" means those regulations which the state board of education may adopt upon the recommendation and with the advice of the superintendent of Public Instruction. The superintendent of public instruction shall recommend for adoption by the state board of education such rules and regulations as he deems necessary for carrying out the purpose of this chapter.

(14) "Rank and experience factor" means that factor that takes into consideration rank as provided in KRS 157A.080 and professional experience as defined by the regulations of the state board of education.

[(15) "Required local tax effort" means the amount of money required to be provided by a district from local property tax revenue sources only.]

(15) [(16)] "Secondary school" means a school consisting of grades seven through twelve, or any appropriate combination of grades within this range, except seven and eight, as determined by the plan of organization for schools authorized by the district board. When grades seven through nine or ten are organized separately as a junior high school, or grades ten through twelve are organized separately as a senior high school, and are conducted in separate school plant facilities, each shall be considered a separate secondary school for the purposes of this chapter.

(16) [(17)] "Single salary schedule" means a salary schedule adopted by a local board which is based on training, experience, and such other factors as the state board of education may approve upon recommendation of the superintendent of public instruction. The salary schedule shall not discriminate between salaries paid elementary or secondary teachers.

(17) [(18)] "Teacher" means any person engaged in classroom instruction, principal, supervisor. superintendent, assistant superintendent, librarian, director of pupil personnel, or other member of the teaching or professional staff employed by the board and engaged in the service of the public elementary, secondary,

and/or vocational school for whom certification is required as a condition of employment.

(18) [(19)] "Value of capital outlay unit" means the amount appropriated in the biennial budget for each pupil unit for capital outlay.

(19) [(20)] "Value of pupil unit" means the amount appropriated in the biennial budget for each pupil unit for current operations.

(20) [(21)] "Vocational school" means a facility which provides the vocational component of the education program for secondary pupils.

Section 13. KRS 157A.050 is amended to read as follows:

Each district which meets the following requirements shall be eligible to share in the distribution of funds from the public common school foundation program fund:

(1) Employs and compensates all teachers for not fewer than 185 days, provided, that the state board of education upon recommendation of the superintendent of public instruction, shall prescribe procedures whereby this requirement may be reduced during any year for any district which employs teachers for less than 185 days, in which case the eligibility of a district for participation in the public common school foundation program fund shall be in proportion to the length of time teachers are employed.

(2) Operates all schools for a term as provided in KRS 158.070 and regulations of the state board of education, provided, however, that if the school term is less than 185 days for any reason approved by the state board of education on recommendation of the superintendent of public instruction, the eligibility of a district for participation in the public common school foundation program fund shall be in proportion to the length of term the schools actually operate.

(3) Compensates all teachers on the basis of a single salary schedule and in conformity with the provisions of this chapter.

[(4) Makes the required local tax effort as otherwise provided by KRS 157A.030.]

(4) [(5)] Includes no nonresident pupils in its average daily attendance or average daily membership except by written agreement with the district of the pupils' legal residence. This subsection does not apply to those pupils enrolled in an approved class conducted in hospitals.

Section 14. KRS 157A.070 is amended to read as follows:

The superintendent of public instruction shall determine the value of the pupil unit in the following manner:

(1) The amount appropriated by the general assembly for the public common school foundation program during fiscal 1976 plus any funds available from other sources shall be allotted under the public common school foundation program fund. The amount to be allotted for current operation shall include the amounts appropriated under the public common school foundation program for instruction salaries and current expense after the adjustment for transportation [and required local effort] has been completed. This amount will be divided by the pupil units to establish the value of a "pupil unit." In subsequent fiscal years, the value of a "pupil unit" shall be set for each year of the biennium by the general assembly.

(2) The amount to be included for capital outlay shall be the amount appropriated by the general assembly under the public common school foundation program for fiscal 1976. This amount will be divided by the total pupil units to establish the value of a "capital outlay unit." In subsequent fiscal years, the value of a "capital outlay unit" shall be set each year of the biennium by the general assembly.

Section 15. KRS 157A.100 is amended to read as follows:

[(1)] On or before January 1 of each year the department of revenue shall determine the fair cash value of all property subject to assessment for school purposes, including a separate listing of the part of such assessment represented by "net assessment growth" as defined in KRS 132.425, [and shall determine the percentage the fair cash value in each district is of the total equalized value of all property in the commonwealth subject to taxation for school purposes] and shall certify such information to the superintendent of public instruction for use in determining the *maximum permissible local ad valorem tax revenue for school purposes* [required local tax effort for each district for the fiscal year beginning on July 1, next after such certification].

[(2) The superintendent of public instruction shall for the 1968-69 fiscal year use the aggregate required local tax effort and the required local tax effort for the respective school districts which were determined for use during the 1967-68 fiscal year. For each fiscal year subsequent to 1968-69, the aggregate required local tax effort for the commonwealth shall be the sum of the aggregate required local tax effort for the preceding year plus the amount obtained by multiplying the percentage of net assessment growth, as defined in KRS 132.425, by the aggregate local required tax effort for the preceding year; and the required local tax effort for each district shall be obtained by multiplying each district's percentage of the total equalized value of all property in the commonwealth subject to school taxation for school purposes by the aggregate required local tax effort of the commonwealth.]

[(3) Any district's levy under KRS 160.470 shall be at such rate as is necessary to provide the required local tax effort.]

Section 16. KRS 157A.110 is amended to read as follows:

The superintendent of public instruction shall determine the amount distributable to each district from the public common school foundation program fund in the following manner:

(1) The amount included for each district for current operations shall be the adjusted pupil units times the value of a pupil unit as calculated in subsection (1) of KRS 157A.070 in fiscal 1976 and as appropriated by the legislature each year thereafter.

(2) The amount included for each district for capital outlay shall be the total pupil units times the value of a capital outlay unit as calculated in subsection (2) of KRS 157A.070 in fiscal 1976 and as appropriated by the legislature each year thereafter.

(3) The amount included for each district for transportation shall be the aggregate attendance of transported pupils multiplied by the formula adjusted cost.

(4) The calculated foundation program level of funding for each district shall be the sum of subsection (1), (2), and (3) of this section.

(5) The amount of money distributable to each district from the public common school foundation program fund shall be [determined by subtracting the required local tax effort as determined in subsection (2) of KRS 157A.100 from] the calculated level of foundation program funding for each district as determined in subsection (4) of this section.

(6) If it is determined in subsection (5) of this section that the amount of money distributed to a school district for the school year 1975-76 shall be less than the allotment under subsection (1) of KRS 157.400, then the apportionment for that district shall be increased to the allotment under subsection (1) of KRS 157.400.

Section 17. KRS 160.470 is amended to read as follows:

(1) Each district board of education shall prepare a general school budget on forms prescribed and furnished by the state board of education, showing the amount of money needed for current expenses, debt service, capital outlay, and other necessary expenses of the schools during the succeeding fiscal year, the estimated total amount that will be received from the common school fund and other sources, the assessed valuation of property subject to local taxation in the school district furnished as provided in subsection (3) of KRS 160.460, an estimate made by the department of revenue of public service company assessments and assessments of other property in the school district not furnished under the provisions of subsection (3) of KRS 160.460, and the amount that will be needed to be raised by local taxation, including the rate of levy necessary to raise such an amount.

(2) Notwithstanding any statutory provisions to the contrary, no district board of education shall submit a budget which would require more revenue from local ad valorem taxes than would be produced by application of the preceding year's rate, *less that part of the preceding year's tax rate levied to satisfy the "required local tax effort" provisions of KRS 157A.050(4) and KRS 157A.100,* to the preceding year's assessment, exclusive of voted levies and net assessment growth as defined in KRS 132.425, except as provided in *Section 6 of this Act,* [subsection (3) of KRS 157.380] and as provided in subsection (4) of this section. In the event of a merger of school districts, the limitations contained in this section shall be based upon the combined revenue of the merging districts, as computed under the provisions of this section.

(3) The superintendent of public instruction shall certify to each district board of education, by June 1 of each year, the maximum permissible local ad valorem tax revenue. This amount shall be computed as follows:

(a) The superintendent of public instruction shall determine the total amount of ad valorem tax revenue which would be produced by application of the preceding year's rate, *less that part of the preceding year's rate levied to satisfy the "required local tax effort" provisions of KRS 157.050(4) and KRS 157A.100,* to the preceding year's assessment.

(b) The superintendent of public instruction shall determine the total amount of ad valorem tax revenue which would be produced by application of the preceding year's effective tax rate, *less that part of the preceding year's tax rate levied to satisfy the "required local tax effort" provisions of KRS 157A.050(4) and KRS 157A.100,* to the net assessment growth in each school district. The net assessment growth as determined in accordance with KRS 132.425 shall be certified to the superintendent of public instruction by the department of revenue by May 20 of each year.

[(c) The superintendent of public instruction shall compile a list of those school districts in which the general fund ad valorem tax for the 1965-1966 school year was levied at a rate less than the $1.50 maximum then authorized by KRS 160.475. The superintendent of public instruction shall then calculate for each such district the revenue that would have been produced for the 1965-1966 school year if such tax had been levied at the $1.50 rate. He shall then re-calculate the maximum permissible local ad valorem tax revenue that would have been authorized for each such district for the 1966-1967, 1967-1968, 1968-1969 and 1969-1970 school years as though the 1965-1966 tax had been levied at the $1.50 rate, including in such re-calculation the revenue that would have been derived from taxation of net assessment growth under paragraph (b) of this subsection and the revenue that would have been derived from any percentage increases actually adopted by the district under subsection (4) of this section. The maximum permissible local ad valorem tax revenue so re-calculated for the 1969-1970 school year shall, for such districts, be deemed the total amount of ad valorem tax revenue to be determined by the superintendent for the 1970-1971 school year under paragraph (a) of this subsection.]

(c) [(d)] The sum of the amounts computed under paragraphs (a) and (b) of this subsection shall be the maximum permissible local ad valorem tax revenue for purposes of subsection (2) of this section [, except as otherwise therein prescribed].

[(e) Any school district which is not contemplating capital construction and which is eligible for the increase allowed in paragraph (c) of this subsection may elect to take advantage of the increase in equal stages over a period of three years.]

[(4) Notwithstanding the limitations contained in subsection (2) of this section, any district board of education which in preparing its proposed budget deems that it will require an amount of revenue greater than that permitted in subsection (2) of this section may submit to the levying authority for the school years 1966-1967 and 1967-1968 a budget which could require an increase in such revenue of not more than 10 per cent after compliance with the following:]

[(a) The district board of education shall give notice of any proposed increase in revenue. Notwithstanding any statutory provisions to the contrary, notice shall be given by causing to be published, at least one (1) time in a newspaper of general circulation published in the county or by posting at the courthouse door if there be no such newspaper, the fact that said increase of not exceeding 10 per cent is being proposed. Said advertisement shall state that the district board of education will meet at a place and on a day fixed in the advertisement, not earlier than one (1) week and not later than two (2) weeks from the date of the advertisement, for the purpose of hearing comments and complaints regarding the proposed increase and explaining the reasons for such proposal.]

[(b) The district board of education shall conduct a public hearing at the place and on the date advertised for the purpose of hearing comments and complaints regarding the proposed increase and explaining the reasons for such proposal.]

(4) [(5)] Three (3) copies of the budget shall be filed with the clerk of the tax-levying authority of the district within three (3) days after the district board of education has received its assessment data. The clerk shall present the budget to the proper tax-levying authority when the authority convenes to fix its school levy. The failure of the district board of education to furnish the budget within the time prescribed shall not invalidate any levy made thereafter.

(5) [(6)] Within three (3) days after the tax-levying authority has fixed the tax rate, the district board of education shall forward two (2) copies of the budget to the state board of education for its approval or disapproval. The budget shall be disapproved if it is financially unsound or fails to provide for: (a) Payment of maturing principal of and interest on any outstanding voted school improvement bonds of the school district authorized and issued pursuant to KRS 162.080 and 162.090, with the written approval of the state board of education, or (b) Payment of rentals in connection with any outstanding school building revenue bonds issued for the benefit of the independent school district or county school district, as the case may be, by the appropriate city or county as authorized and provided under the provisions of KRS 162.120 to 162.300, with the written approval of the state board of education, or fails to comply with the law; and the state board of education shall state its reason, or reasons, for such disapproval. In such event the district board of education shall amend its budget, within the limitations of this section, to obviate the reasons for disapproval.

(6) [(7)] If the budget as amended specifies a tax levy different from that levied under the disapproved budget, the tax-levying authority shall amend its levy in accordance therewith, so that the levy as amended shall comply with the provisions of subsection (1) of KRS 160.460. No general school budget shall become effective until approved by the state board of education.

(7) [(8)] Each district board of education shall, if required by the state board of education, prepare and submit to it not later than September 15, a close estimate or working budget which shall conform to the rules and regulations prescribed by the state board of education, and which shall be consistent in its major divisions with the general school budget previously prepared.

Section 18. KRS 160.475 is amended to read as follows:

(1) Except as otherwise provided in KRS 160.470(2), 160.476(4) and 160.477(6) the ad valorem tax levy for school purposes, other than sinking fund purposes, in each school district, shall be not [less than twenty-five cents (25c) annually on each one hundred dollars ($100) of property subject to local taxation nor] more than one dollar and fifty cents ($1.50) annually on each one hundred dollars ($100) of property subject to local taxation.

(2) All existing subdistrict school tax levies, except those required to retire voted bonds, are hereby abolished.

(3) In any school district which levied a poll tax in 1973, the superintendent of public instruction may include the revenue received from the poll tax in that year in computing the maximum permissible revenue for 1974 under the provisions of KRS 160.470(3).

Section 19. On July 1, 1976, the superintendent of public instruction shall make the calculations and fulfill the duties required by Sections 4, 5, 7 and 8 of this Act.

The Committee Amendment to **HB 4** is as follows:

Amend printed copy of House Bill 4 on page 2, lines 18 through 24, by deleting all of paragraph (b), and inserting in its place the following:

(b) Determine the current maximum local discretionary revenue yield per pupil in each district by multiplying the district's equalized fair cash value of property per pupil by the district's total school tax rate, less any special voted building fund tax rate and any sinking fund tax rate. The net rate used in this calculation shall not exceed the supported rate as provided for in Section 5 of this act.

and on page 2, lines 25 and 26, and on page 3, lines 1 through 6, by deleting all of paragraph (c), and inserting in its place the following:

(c) Determine the guaranteed local discretionary revenue yield per pupil in each district by multiplying the equalized fair cash value of property per pupil of the county district with the highest fair cash value of property per pupil in the state by each district's total school tax rate less any special voted building fund tax rate and any sinking fund tax rate. The net rate used in this calculation shall not exceed the supported rate as provided for in Section 5 of this Act.

and on page 3, lines 15 through 19, by deleting all of subsection (2) and inserting in its place the following:

(2) Equalized fair cash value of property and average daily attendance as used in this section shall be the prior year's equalized fair cash value of property and average daily attendance. School tax rates as used in this section shall be the current year's school tax rates.

and on page 4, lines 14 and 15, by deleting on line 14 the comma and the words "less the rate", and by deleting on line 15 the words "required by KRS 157A.100 for local effort" and the comma.

and on page 5, line 21, by deleting the words "July 1 following", and by adding after the word, "effective", the words, "on the date of"

and on page 6, lines 2 through 26, and on page 7, line 1, by deleting all of Section 7, and inserting in its place the following:

Section 7. A new section of KRS Chapter 157A is created to read as follows:

For each school year the department of finance, on the certification of the superintendent of public instruction, shall draw warrants as specified hereinafter on the state treasurer for the amount of the state power equalization support due each district. Checks shall be issued by the state treasurer and transmitted to the Department of Education for distribution to the proper officials of the school districts when the districts have fully complied with the school laws and rules and regulations of the state board of education. The superintendent of public instruction shall determine on or before July 1 of each year the tentative allotment of school funds to which each district is entitled under the provisions of this Act. This allotment will be based on the prior year's school tax rate. Beginning July 1 of each year and on the first of each month thereafter, one-twelfth (1/12) of each district's share of the state power equalization support shall be distributed. On or before March 1 of each year, the superintendent of public instruction shall determine the exact amount of the state power equalization support to which each district is entitled and the remainder of the amount due each district for the year shall be distributed in equal installments beginning the first month after completion of the final Calculation and for each successive month thereafter.

and on page 7, lines 2 through 26, and on page 8, lines 1 through 8, by deleting all of Section 8, and inserting in its place the following:

Section 8. A new section of KRS Chapter 157A is created to read as follows:

(1) No district shall be eligible for the state power equalization support provided for in this Act during any fiscal year in which the district board of education specifies in its budget for that fiscal year a total school tax rate, less any special voted building fund tax rate and any sinking fund tax rate, which would produce less revenue than was produced by the application of that district's total school tax rate for fiscal year 1975-76, less thirty cents (30¢), and less any special voted building fund rate and any sinking fund tax rate for fiscal year 1975-76, to that district's 1975 assessment specified under KRS 160.460(3).

(2) The superintendent of public instruction shall not certify to the Executive Department for Finance and Administration for payment of the state power equalization support for any fiscal year a school district which has become ineligible for such support as provided in subsection (1) above.

(3) Any district receiving a tentative allotment under Section 7 of this Act which does not meet the requirement of subsection (1) above shall return all funds received to the District Equalization Program Fund.

and on page 9, line 18, by adding after the word "cents" the numeral, "(15¢)";

and on page 21, line 23, by inserting a bracket after the comma and before the word "including";

and on page 21, line 25, by removing the bracket;

and on page 22, line 5, by inserting a period after the word "*purposes*", and underlining the period;

and on page 25, lines 6 through 21, by deleting all of subsection (2) and inserting in its place the following:

(2) Notwithstanding any statutory provisions to the contrary, no district board of education shall submit a budget *for 1976-77* which would require more revenue from local ad valorem taxes than would be produced by application of the *1975-76* [preceding year's] rate, *minus thirty cents (30¢),* to the *1975-76* [preceding year's] assessment, exclusive of voted levies and net assessment growth as defined in KRS 132.425, except as provided in *Section 6 of this Act.* [subsection (3) of KRS 157.380 and as provided in subsection (4) of this section.] *In succeeding years, no district board of education shall submit a budget which would require more revenue from local ad valorem taxes than would be produced by application of the preceding year's rate to the preceding year's assessment, exclusive of voted levies and net assessment growth as defined in KRS 132.425, except as provided in Section 6 of this act.* In the event of a merger of school districts, the limitations contained in this section shall be based upon the combined revenue of the merging districts, as computed under the provisions of this section.

and on page 25, line 26, and on page 26, lines 1 through 6, by deleting all of paragraph (a), and inserting in its place the following:

(a) The superintendent of public instruction shall determine the total amount of ad valorem tax revenue which would be produced by application of the *1975-76* [preceding year's] rate, *minus thirty cents (30¢),* to the *1975-76* [preceding year's] assessment. *In succeeding years, the superintendent of public instruction shall determine the total amount of ad valorem tax revenue which would be produced by application of the preceding year's rate to the preceding year's assessment.*

and on page 26, lines 7 through 17, by deleting all of paragraph (b), and inserting in its place the following:

(b) The superintendent of public instruction shall determine the total amount of ad valorem tax revenue which would be produced by application of the *1975-76* [preceding year's effective tax] rate, *minus thirty cents (30¢),* to the net assessment growth in each school district. *In succeeding years, the superintendent of public instruction shall determine the total amount of ad valorem tax revenue which would be produced by application of the preceding year's rate to the net assessment growth in each school distrct.* The net assessment growth as determined in accordance with KRS 132.425 shall be certified to the superintendent of public instruction by the department of revenue by May 20 of each year.

and on page 31, line 10, by inserting a bracket before the numeral (3);

and on page 31, line 14, by inserting a bracket after the period.

The Committee on Business Organizations and professions reported **HB 20,** with Committee Amendment attached thereto, and **HB 231** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 20, AN ACT relating to licensing of real estate agents.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 324 is created to read as follows:
Effective July 1, 1979, no real estate salesman licensed in Kentucky shall supervise other licensed salesmen or manage a real estate office.

Section 2. A new section of KRS Chapter 324 is created to read as follows:

(1) Every applicant for initial licensure as a real estate broker shall have attained an associate degree in real estate or a baccalaureate degree with a major in real estate from an accredited real estate school and shall have been engaged in the real estate business in Kentucky as a licensed real estate salesman for a period of twelve (12) months prior to application.

(2) Every applicant for initial licensure as an associate broker shall have successfully completed twelve (12) academic credit hours in real estate courses from an accredited real estate school and shall have been engaged in the real estate business in Kentucky as a licensed salesman for a period of twenty-four (24) months prior to application.

(3) Every applicant for initial licensure as a real estate salesman shall have successfully completed six (6) academic credit hours in real estate courses from an accredited or approved real estate school.

Section 3. A new section of KRS Chapter 324 is created to read as follows:
The Commission may waive the immediate imposition of the requirements for licensure set out in Section 2 of this Act and may adopt by administrative regulation, in accordance with the provisions of KRS Chapter 13, a program for the gradual implementation of the requirements of Section 2 of this Act, which shall be in full force and effect by July 1, 1985.

(1) The requirements for applicants for a broker's license shall be increased as follows& The Commission may reduce the two-year experience requirement for applicants for a broker's license to one year if the applicant has attained an associate degree in real estate or a baccalaureate degree with a major in real estate:

(a) As of July 1, 1977—Not less than six (6) academic credit hours in real estate courses from an accredited real estate school and two (2) years experience prior to application as a real estate salesman.

(b) As of July 1, 1979—Not less than twenty-one (21) academic credit hours with at least twelve (12) academic credit hours in real estate courses from an accredited real estate school and two (2) years experience prior to application as a real estate salesman.

(c) As of July 1, 1981—Not less than thirty-eight (38) academic credit hours with at least fifteen (15) academic credit hours in real estate courses from an accredited real estate school and two (2) years experience prior to application as a real estate salesman.

(d) As of July 1, 1983—Not less than forty-eight (48) academic credit hours with at least fifteen (15) academic credit hours in real estate courses from an accredited real estate school and two (2) years experience prior to application as a real estate salesman.

(e) As of July 1, 1985—An associate degree in real estate or a baccalaureate degree with a major in real estate from an accredited real estate school and one (1) year experience prior to application as a real estate salesman.

(2) The requirements for applicants for an associate broker's license shall be increased as follows:

(a) As of July 1, 1979—Not less than three (3) academic credit hours in real estate courses from an approved or accredited real estate school and one (1) year experience prior to application as a real estate salesman.

(b) As of July 1, 1981—Not less than six (6) academic credit hours in real estate courses from an approved or accredited real estate school and two (2) years experience prior to application as a real estate salesman.

(c) As of July 1, 1983—Not less than nine (9) academic credit hours in real estate courses from an approved or accredited real estate school and two (2) years experience prior to application as a salesman.

(d) As of July 1, 1985—Not less than twelve (12) academic credit hours in real estate from an approved or accredited real estate school and two (2) years experience prior to application as a real estate salesman.

(3) The requirements for applicants for a salesman's license shall be increased as follows:

(a) As of July 1, 1979—Not less than three (3) academic credit hours in real estate courses from an approved or accredited real estate school.

(b) As of July 1, 1985—Not less than six (6) academic credit hours in real estate courses from an approved or accredited real estate school.

Section 4. A new section of KRS Chapter 324 is created to read as follows:

(1) On or after July 1, 1979, it shall be unlawful for any person to act as a real estate broker, associate broker or salesman or to advertise or assume to act as a real estate broker, associate broker or salesman within the Commonwealth of Kentucky without a license issued by the Kentucky Real Estate Commission.

(2) Nothing in this Act shall be construed as to require or permit the issuance of an associate broker's license prior to July 1, 1979.

Section 5. A new section of KRS Chapter 324 is created to read as follows:

Effective July 1, 1988 all persons who are now or may hereafter be licensed as a broker, associate broker or salesman shall, as a prerequisite to license renewal, submit evidence satisfactory to the Commission that such licensee has within the previous three (3) years completed three (3) continuing education units of instruction in real estate courses. Thereafter each licensee shall complete three (3) continuing education units every three (3) years as a condition upon such licensee's qualification for license renewal. One continuing education unit shall equal ten classroom hours of instruction in real estate courses approved by the Commission. Enrollment and attendance at any course of instruction shall be certified by the Commission upon a form provided by the Commission and shall be submitted by each licensee at the time he makes application to the Commission for the renewal of his license and the payment of his renewal fee. The Commission in its discretion may make exceptions to the continuing education requirements for such hardships or other extenuating circumstances as the Commission deems appropriate.

Section 6. A new section of KRS Chapter 324 is created to read as follows:

(1) Within two (2) years after the date a salesman's license is issued, such licensee shall successfully complete thirty (30) clock hours of classroom instruction in real estate practices at an approved or accredited real estate school. Upon completion of such instruction, each such person shall file with the Commission a certificate showing that he has successfully completed such instruction. If such instruction is not successfully completed within two (2) years, his license shall not be renewed on renewal date. The commission shall notify the broker with whom such salesman is associated, thirty (30) days prior to the renewal date, that such salesman's license will not renewed. The requirement of thirty (30) clock hours of classroom instruction applies only to persons who are applicants for license for the first time and is not applicable to renewal of broker's, associate broker's or salesman's licenses.

(2) This section is repealed effective July 1, 1985.

Section 7. A new section of KRS Chapter 324 is created to read as follows:

(1) Every applicant for a broker's license shall have held a salesman's license for a period of twenty-four (24) months in this state prior to the date of said application, and must have been engaged in the real estate business for such a period of time, and shall apply in writing upon blanks prepared or furnished by the commission. If the applicant can furnish the commission a certificate from a resident college, university, or business school, accredited by appropriately recognized educational associations or chartered and licensed in the state of Kentucky, reflecting satisfactory completion of sixty (60) college hours or eighteen (18) months of resident classroom training, then the requirements pertaining to holding a salesman's license for two (2) years shall be reduced to one (1) year and the applicant shall otherwise be eligible to apply for a broker's examination. The requirements for a salesman's (broker's) license shall not apply to any applicant who formerly held a broker's license in this or any other state nor to any person who has been actively engaged as a builder for a period of three (3) years.

(2) This section is repealed effective July 1, 1977.

Section 8. KRS 324.010 is amended to read as follows:

(1) As used in this chapter, unless the context requires otherwise:

(a) "Associate broker" means any person who for compensation or valuable consideration is employed directly or indirectly by a broker to perform all the functions authorized by a brokers license only for and on

behalf of such employing broker including but not limited to authority to supervise other salesmen employed by a broker and manage an office on behalf of a broker.

(b) [(a)] "Association" means the National Association of *Realtors* [Real Estate Boards].

(c) [(b)] "Broker" means any person who for *a fee, commission* compensation or *other* valuable consideration sells or offers for sale, buys or offers to buy, or negotiates the purchase or sale or exchange of real estate, *or appraises or offers to appraise* or who leases or offers to lease, or rents or offers for rent, *or refers or offers to refer for the purpose of securing prospects,* any real estate or the improvements thereon for others, as a whole or partial vocation.

(d) [(c)] "Commission" means the *Kentucky* [State] Real Estate Commission.

(e) [(d)] "Real estate" includes leaseholds and other interests less than leaseholds.

(f) [(e)] "Salesman" means any person who for *a fee, commission,* compensation or *other* valuable consideration is employed either directly or indirectly by a broker to sell or offer to sell, or to buy or offer to buy, or to negotiate the purchase or sale or exchange of real estate, or to lease *or negotiate leases thereof or to* [,] rent or offer for rent, *or to refer or offer to refer for the purpose of securing prospects* any real estate [, or to negotiate leases thereof] or [of] the improvements thereon *for others* as a whole or partial vocation.

(g) [(f)] "Approved real estate school" means a school that has been given a certificate of approval by the Kentucky Real Estate Commission and is currently in good standing.

(h) [(g)] "Accredited real estate school" means a college or university *accredited by appropriately recognized educational associations or chartered and licensed in Kentucky* that grants credit toward *an associate degree or a baccalaureate* [a bachelor's] degree to those students sucessfully completing a course in real estate.

(2) One act for a *fee, commission,* compensation or *other* valuable consideration of buying or selling real estate of or for another, or offering for another to buy, sell or exchange real estate, or leasing, renting or offering to rent real estate, *or referring or offering to refer real estate for the purpose of securing prospects* shall constitute the person performing, offering or attempting to perform such act *as* a broker, *associate broker* or [a] salesman.

Section 9. KRS 324.020 is amended to read as follows:

On or after *the effective date of this Act* [July 1, 1956], it shall be unlawful for any person [, copartnership, association or corporation] to act as a real estate broker or real estate salesman or to advertise or assume to act as such real estate broker or real estate salesman within the commonwealth of Kentucky, without a license issued by the Kentucky real estate commission.

Section 10. KRS 324.030 is amended to read as follows:

KRS 324.020 shall not apply to:

(1) Any person who as owner or lessor performs any of the acts defined in KRS 324.010 with reference to property owned or leased by him or to his regular employes, with respect to the property so owned or leased, where such acts are performed in the regular course of, or as an incident to the management of such property and the investment in it.

(2) Any person acting as attorney in fact under a duly executed power of attorney from the owner authorizing the final consummation by performance of any contract for the sale, leasing or exchange of real estate.

(3) Any attorney at law who is performing his duties as attorney at law.

(4) Any receiver, trustee in bankruptcy, administrator or executor or any person selling real estate under order of any court, or a trustee acting under a trust agreement, deed of trust or will, or the regular salaried employes thereof.

(5) Any person who appraises or offers to appraise real estate in his capacity as an officer, director or employe of a bank or savings and loan.

Section 11. KRS 324.040 is amended to read as follows:

(1) Every *applicant* [application] for a license, whether as broker, *associate broker* or salesman, shall state whether or not the applicant has ever had any broker's, *associate broker's* or salesman's license revoked or suspended. It shall be accompanied by the license fee prescribed by KRS 324.070, but, if the commission does not issue the license, the fee shall be returned to the applicant. Every applicant for a license shall furnish a sworn statement setting forth his business and residence address.

(2) Every applicant for a broker's license shall apply in writing upon blanks prepared or furnished by the commission. He shall state the name of the person or company with which he will be associated in the business of real estate, and the location of the place for which the license is desired, and shall set forth the period of time, if any, during which he has been engaged in the real estate business.

(3) Every applicant for a salesman's *or associate broker's* license shall set forth the name and place of business of the company then employing him or into whose service he is about to enter.

(4) Every applicant for a [broker's or salesman's] license shall be at least eighteen years of age *and shall have attained a high school diploma or its equivalent.* After an applicant passes the required examination [for a salesman's license], the commission shall issue a license to him. [Within two years from the date such license is issued, the licensee shall successfully complete thirty clock hours of classroom instruction in real estate practices at an approved or an accredited real estate school. Upon completion of such instruction, each such person shall cause to be filed with the commission a certificate showing that he has successfully completed such instruction. If such instruction is not successfully completed within two years, his license shall not be renewed on renewal date. The commission shall notify the broker with whom such salesman is associated, thirty days prior to renewal date, that such salesman's license will not be renewed. The requirement of thirty clock hours of classroom instruction applies only to persons who are applicants for license for the first time and is not applicable to renewal of broker's or salesman's licenses.

(5) Notwithstanding any other provisions to the contrary in this chapter, upon application to the board, any person 60 or more years of age who has held a real estate salesman's license for not less than ten years immediately preceding his application shall be licensed as a real estate broker without taking the examination for a broker's license.]

Section 12. KRS 324.045 is amended to read as follows:

(1) Licenses shall be granted only to persons who are trustworthy and competent to transact the business of a real estate broker, *associate broker* or salesman in such manner as to safeguard the interest of the public, and only after satisfactory proof of such qualifications has been presented to the commission.

(2) In addition to proof of honesty, truthfulness and good reputation of any applicant for a license, each applicant must pass a written examination conducted by said commission, or its authorized representative, which examination shall be of scope and wording sufficient in the judgment of the commission to establish the competency and trustworthiness of the applicant to act as a real estate broker, *associate broker* or salesman in such manner as to protect the interests of the public. Provided, however, no examination shall be required for the renewal of any present or future license unless such license has been revoked, suspended or is allowed to expire without renewal. The commission shall hold examinations at such times and places as it may determine, and an examination fee of $25.00 shall be collected from each applicant to defray the expenses of holding such examinations.

[(3) The provisions of subsection (2) of this section requiring applicants to pass a written examination to obtain license shall not apply to real estate brokers or salesmen furnishing satisfactory proof to the commission that they were engaged in the business or occupation of a real estate broker or salesman on January 1, 1956, within the commonwealth of Kentucky, provided, however, that such real estate brokers and salesmen shall, on or before July 1, 1956, make application to the Kentucky real estate commission for a real estate broker or salesman's license in accordance with provisions of KRS 324.040 and provided further that each application shall be accompanied by a [bond and] license *and recovery fund* fee in accordance with the requirements of KRS [324.060 and] 324.070 *and 324.400.*

(4) Every applicant for a broker's or salesman's license shall be at least eighteen (18) years of age, and shall have graduated from high school, or in the discretion of the commission, shall produce proof of an education equivalent to that of a high school graduate. Every applicant for a broker's license shall have held a salesman's license for a period of twenty-four (24) months in this state prior to the date of said application, and must have been engaged in the real estate business for such a period of time, and shall apply in writing upon blanks prepared or furnished by the commission. If the applicant can furnish the commission a certificate from a resident college, university, or business school, accredited by appropriately recognized educational associations or chartered and licensed in the state of Kentucky, reflecting satisfactory completion of sixty (60) college hours or eighteen (18) months of resident classroom training, then the requirements pertaining to holding a salesman's license for two (2) years shall be reduced to one (1) year and the applicant shall otherwise be eligible to apply for a broker's examination. The requirements for a *broker's* [salesman's] license shall not apply to any applicant who formerly held a broker's license in this or any other state nor to any person who has been actively engaged as a builder for a period of three (3) years.]

Section 13. KRS 324.070 is amended to read as follows:

The original fee for each real estate broker's *and associate broker's* license shall be ten dollars ($10.00) and the annual renewal fee shall be ten dollars ($10.00). The original fee for each real estate salesman's license shall be ten dollars ($10.00) and the annual renewal fee shall be five dollars ($5.00). [Provided That when a copartnership, association or corporation shall have paid an original fee of ten dollars ($10.00) or a renewal fee of ten dollars ($10.00) and shall have designated one (1) of its members or officers as provided in KRS 324.110, the fees payable by any other member or officer actively engaged in the real estate business of such copartnership, association, or corporation shall be ten dollars ($10.00) for the first registration fee and five dollars ($5.00) for a renewal fee, for which a salesman's license shall be issued, but any such member or officer shall be entitled to a broker's license upon the payment of the usual fee therefor.]

Section 14. KRS 324.080 is amended to read as follows:

The commission shall issue to each licensee a license in such form and size as shall be prescribed by the commission. This license shall show the name and address of the licensee and, in case of *an associate broker's or* [a real estate] salesman's license, shall show the name of the real estate broker by whom he is employed. Each license shall have imprinted thereon the seal of the commission, and in addition to the foregoing shall contain such matter as shall be prescribed by the commission. The license of each *associate broker or* [real estate] salesman shall be delivered or mailed to the real estate broker by whom such *associate broker or* [real estate] salesman is employed and shall be kept in the custody and control of such broker. It shall be the duty of each real estate broker to conspicuously display his license in his place of business.

Section 15. KRS 324.100 is amended to read as follows:

The commission shall prepare and deliver to each licensee a pocket card, which card among other things shall contain an imprint of the seal of the commission and shall certify that the person whose name appears thereon is a licensed real estate broker, *associate broker* or [real estate] salesman, as the case may be, and if it is *an associate broker or* [a real estate] salesman's card it shall contain the name and address of his employer. The matter to be printed on such pocket card, except as above set forth, shall be prescribed by the commission.

Section 16. KRS 324.110 is amended to read as follows:

[(1) When a real estate broker's license is granted to any co-partnership or association, consisting of more than one person, or to any corporation, this shall entitle the co-partnership,association, or corporation to designate one of its members or officers, who upon compliance with the terms of this chapter shall, without payment of any fee other than the annual license fees provided for in KRS 324.070 and the fee for the Real Estate Education, Research and Recovery Fund as provided for in KRS 324.400, upon issuance of said broker's license, be entitled to perform all of the acts of a real estate salesman contemplated by this chapter. The persons so designated, however, must make application for a salesman's license, which application shall accompany the application of the real estate broker and be filed with the commission, at the same time. If in any case the person so designated by a real estate broker shall be refused a license by the commission, or in case such person ceases to be connected with such real estate broker, said broker shall have the right to designate another person who shall make application as in the first instance.]

[(2)] Each real estate broker's license which may be granted to an individual shall entitle such individual to perform all of the acts contemplated by this chapter without any application upon his part and without payment of any fee other than the real estate broker's annual fee, as provided for in KRS 324.070 and the fee for the Real Estate Education, Research and Recovery Fund as provided for in KRS 324.400.

Section 17. KRS 324.140 is amended to read as follows:

Every nonresident applicant shall file an irrevocable consent that suits and actions may be commenced against such applicant in the proper court of any county of this state in which a cause of action may arise in which the plaintiff may reside, by the service of any process or pleading authorized by the laws of this state on the secretary of the commission, said consent stipulating and agreeing that such service of such process or pleadings on said secretary shall be taken and held in all courts to be as valid and binding as if due service had been made upon said applicant in the state of Kentucky. *Any* [Said instrument containing such consent shall be authenticated by the seal thereof, if a corporation, or by the acknowledged signature of a member or officer thereof, if otherwise. All such applications, except from individuals shall be accompanied by the duly certified copy of the resolution of the proper officers or managing board, authorizing the proper officers to execute the same. In case any] process or pleadings [mentioned in the case are] served upon the secretary of the commission [,it] shall be by duplicate copies, one (1) of which shall be filed in the office of the commission and the other immediately forwarded by certified mail, return receipt requested or by registered mail to the main office of the applicant against which said process or pleadings are directed.

Section 18. KRS 324.150 is amended to read as follows:

The commission may upon its own motion, and shall upon the verified written complaint of any person, investigate the actions of any broker, *associate broker* or salesman or any person who assumes to act in *such* [either] capacity, if the complaint, or complaint together with other evidence presented in connection with it, makes out a prima facie case. It may suspend or revoke any license for grounds stated in KRS 324.160.

Section 19. KRS 324.160 is amended to read as follows:

(1) The commission may suspend or revoke any license *or levy fines not to exceed five hundred dollars ($500) or both* for any of the following causes:

(a) Obtaining a license through false or fraudulent representation.

(b) Making any substantial misrepresentation.

(c) Making any false promises of a character likely to influence, persuade or induce.

(d) Pursuing a continued and flagrant course of misrepresentation or making false promises through agents or advertising or otherwise.

(e) Acting for more than one (1) party in a transaction without the knowledge of all parties for whom he acts.

(f) Accepting valuable consideration as a salesman *or associate broker* for the performance of any of the acts specified in this chapter, from any person, except his employer.

(g) Representing or attempting to represent a broker other than an employer, without the express knowledge and consent of the employer.

(h) Failing to account for or remit, within a reasonable time, any money belonging to others that comes into his possession.

(i) Paying valuable consideration to any person for services performed in violation of this chapter.

(j) Using the term "realtor" by one not a member of the association.

(k) Any other conduct that constitutes improper, fraudulent or dishonest dealing.

(2) No unlawful act or violation of any provision of this chapter by any salesman, *associate broker,* employe, partner or associate of a broker shall be cause for the revocation of the license of that broker, unless it appears to the satisfaction of the commission that he had guilty knowledge of it.

Section 20. KRS 324.170 is amended to read as follows:

The commission shall before denying an application for license or before suspending or revoking any license set the matter down for a hearing and at least twenty (20) days prior to the date set for the hearing it shall notify the applicant or licensee in writing, which said notice shall contain an exact statement of the charges made and the date and place of the hearing. The applicant or licensee in all hearings shall have the opportunity to be heard in person and by counsel in reference thereto. Such written notice may be served by delivery of same personally to the applicant or licensee or by mailing same by certified mail, return receipt requested or by registered mail to the last known business address of such applicant or licensee. If such applicant or licensee be *an associate broker or* [a] salesman the commission shall also notify the broker employing him or whose employ he is about to enter by mailing notice by certified mail, return receipt requested or by registered mail to the broker's last known business address. The hearing on such charges shall be at such time and place as the commission shall prescribe.

Section 21. KRS 324.230 is amended to read as follows:

The revocation of a broker's license shall automatically suspend every *associate broker or* [real estate] salesman's license granted to any person by virtue of his employment by the broker whose license has been revoked, pending a change of employer and the issuance of a new license. Such new license shall be issued without charge, if granted during the same year in which the original license was granted.

Section 22. KRS 324.281 is amended to read as follows:

(1) There is hereby created the *Kentucky* [State] Real Estate Commission. The Governor shall appoint three persons, each of whom, immediately prior to the date of his appointment has been a resident of the state for five years and whose vocation for a period of at least ten years shall have been that of a real estate broker, *associate broker* or [a real estate] salesman; one member shall be appointed for a term of one year; one member shall be appointed for a term of two years; one member shall be appointed for a term of three years; and until their successors are appointed and qualify, thereafter the term of the members of said commission shall be for three years and until their successors are appointed and qualify. The Kentucky Association of Realtors shall supply a list of not less than three names to the Governor each year from which appointments are to be made. There shall not be more than two of any one political party serving on the commission at the same time. Members to fill vacancies shall be appointed for the unexpired term.

(2) It shall be the duty of the commission to hold disciplinary hearings concerning matters in controversy as provided by this chapter; to conduct examinations for applicants eligible under this chapter; to conduct whenever deemed necessary certain educational seminars and courses directed toward continuing education within the real estate field; to investigate or cause to be investigated any irregularities in violation of this chapter or the promulgated and authorized rules and regulations of the commission; to participate with any other agency of the Commonwealth or the authorized agency of another state for the betterment or improvement of the administration of the statutes, rules or regulations governing this commission. Any action taken by the commission under this subsection shall be appealable as are other actions of the commission under this chapter.

Section 23. KRS 324.290 is amended to read as follows:

The commission shall at least *annually* [semiannually] publish a list of the names and addresses of all licensees licensed by it under the provisions of this chapter, and of all persons whose license has been suspended or revoked within one (1) year; together with such other information relative to the enforcement of the provisions of this chapter as it may deem of interest to the public. One (1) of such lists shall be mailed to the county clerk of each county of the state, and shall be held by the county clerk as a public record. [Such lists shall also be mailed by the commission to any person in this state upon request.]

Section 24. KRS 324.310 is amended to read as follows:

When any *associate broker or* [real estate] salesman shall be discharged or shall terminate his employment with the real estate broker by whom he is employed, it shall be the duty of such real estate broker to immediately deliver or mail by certified mail, return receipt requested or registered mail to the commission such *associate broker's or* [real estate] salesman's license. The real estate broker shall, at the time of mailing such *associate broker's or* [real estate] salesman's license to the commission, address a communication to the last known residence address of such *associate broker or* [real estate] salesman, which communication shall advise such *associate broker or* [real estate] salesman that his license has been delivered or mailed to the commission. A copy of such communication to the *associate broker or* [real estate] salesman shall accompany the license when mailed or delivered to the commission. It shall be unlawful for any *associate broker or* [real estate] salesman to perform any of the acts contemplated by this chapter either directly or indirectly under authority of said license from and after the date or receipt of the said license from said broker by the commission: Provided, That another license shall not be issued to such *associate broker or* [real estate] salesman until he shall return his former pocket card to the commission or shall satisfactorily account to it for the same. Provided, further, That not more than one (1) license shall be issued to any *associate broker or* [real estate] salesman for the same period of time.

Section 25. KRS 324.300 and 324.320 are hereby repealed.

The Committee Amendment to **HB 20** is as follows:

Amend printed copy of House Bill 20,

pages 10 and 11, by deleting Section 10 in its entirety;

and on page 11, line 7, by deleting "11" and substituting in lieu thereof "10"

and on page 13, line 7, by deleting "12" and substituting in lieu thereof "11";

and on page 15, line 21, by deleting "13" and substituting in lieu thereof "12";

and on page 16, line 15, by deleting "14" and substituting in lieu thereof "13";

and on page 17, line 7, by deleting "15" and substituting in lieu thereof "14";

and on page 17, line 20, by deleting "16" and substituting in lieu thereof "15";

and on page 18, line 26, by deleting "17" and substituting in lieu thereof "16";

and on page 20, line 2, by deleting "18" and substituting in lieu thereof "17";

and on page 20, line 12, by deleting "19" and substituting in lieu thereof "18";

and on page 21, line 24, by deleting "20" and substituting in lieu thereof "19";

and on page 22, line 21, by deleting "21" and substituting in lieu thereof "20";

and on page 23, line 5, by deleting "22" and substituting in lieu thereof "21";

and on page 24, line 17, by deleting "23" and substituting in lieu thereof "22";

and on page 25, line 5, immediately following the word "Section", by deleting "24" and substituting in lieu thereof "23";

and on page 26, line 10, by deleting "25" and substituting in lieu thereof "24";

and on page 14, line 18, by removing the brackets before the word "bond" and after the word "and" and by deleting "*and recovery*";

and on line 19, by deleting "*fund*";

and on line 20, by removing the brackets before "324.060" and after "and" and by deleting "*and 324.400* ";

and on page 15, line 16, by deleting "*broker's*" and by removing the brackets from the word "salesman's"

HB 231, AN ACT relating to alcoholic beverages.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 243.030 is amended to read as follows:

The following kinds of distilled spirits and wine licenses may be issued by the administrator of the distilled spirits unit, the fees for which shall be:

(1)	Distiller's license, per annum	$ 500.00
(2)	Rectifier's license, per annum	$1500.00
(3)	Blender's license, per annum	$ 500.00
(4)	Vintner's license, per annum	$ 500.00
(5)	Wholesaler's license, per annum	$1000.00
(6)	Retail package license, per annum:	
(a)	In counties containing cities of the first class	$ 600.00
(b)	In counties containing cities of the second class	$ 500.00
(c)	In counties containing cities of the third class	$ 400.00
(d)	In counties containing cities of the fourth class	$ 300.00
(e)	In all other counties	$ 200.00
(7)	Retail drink license, per annum:	
(a)	In counties containing cities of the first class	$ 800.00
(b)	In counties containing cities of the second class	$ 500.00
(c)	In counties containing cities of the third class	$ 400.00
(d)	*In counties containing cities of the fourth class*	*$ 300.00*
(8)	Transporter's license, per annum	$ 10.00
(9)	Dining car license, per annum	$ 50.00
(10)	Special nonbeverage alcohol vendor's license, per annum	$ 2.00
(11)	Special industrial alcohol license, per annum	$ 2.00
(12)	Special nonindustrial alcohol license, per annum	$ 2.00
(13)	Special agent's or solicitor's license, per annum	$ 2.00
(14)	Special storage or warehouse license, per annum	$ 50.00
(15)	Special temporary license, per month or part of month, one-sixth of the fees enumerated in subsection (7).	
(16)	Special private club license, per annum	$ 150.00
(17)	Special Sunday retail drink license	$ 300.00

(18) Such other special license as the board may find necessary for the proper regulation and control of the traffic in distilled spirits and wine and may provide for by regulation. In fixing the amount of license taxes that are required to be fixed by the board, it shall have regard for the value of the privilege granted.

Section 2. KRS 243.220 is amended to read as follows:

(1) No license for the sale of alcoholic beverages at retail shall be issued for any premises unless the applicant for the license is the owner of the premises or is in possession of the premises under a written lease for a term of not less than the license period.

(2) (a) No premises shall be licensed for the sale of alcoholic beverages at retail except where the licensed premises and the entrance to the premises are on the street level and located in a business center or on a main thoroughfare.

(b) Paragraph (a) of this subsection shall not apply to a hotel, club or restaurant, provided the club or restaurant receives a minimum of forty per cent (40%) of its income from the sale of food and has a minimum seating capacity of fifty (50) people at tables. In the class of cases described in this paragraph the administrator to whom the application is made may, in the exercise of his sound discretion, decide whether the premises are to be licensed.

(3) (a) Except as provided in paragraphs (b) and (c) of this subsection, no license for the sale of alcoholic beverages at retail shall be issued for any premises that are located on the same street as, and within two hundred (200) feet of, a building used exclusively as a church or for class rooms of a school, if the governing authority of the church or school, within ten (10) days after receiving notice of the application for the license, files written protest with the state administrator against the issuance of the license. The measurement shall be taken on the street on which the licensed premises are located, in a straight line from the nearest outside wall of the building on the licensed premises to the nearest outside wall of the church or school building. Proof of the giving of notice to the governing authority of the church or school must be furnished to the state administrator before the license is issued.

(b) A hotel, drug store, private club or other retail licensee which or who has been bona fide in business as a licensee at a particular location for not less than one (1) year preceding the passage of Acts 1938, ch. 2, or the establishment of the church or school, may be issued a license by the administrator, in the exercise of his sound discretion, regardless of protest, even though the premises are within less than two hundred (200) feet of a building occupied exclusively as a church or for class rooms of a school.

(c) In cities of the first, second, [or] third *or fourth* class, the city administrator, with the approval of the state alcoholic beverage control board, may issue a regulation in such city requiring written permission by the governing authority of the church or school for the licensing of retail premises within two hundred (200) feet of the church or school building, in which case the state administrator may not issue the license without such permission, except under the circumstances set forth in paragraph (b) of this subsection.

Section 3. KRS 243.230 is amended to read as follows:

(1) Licenses to sell distilled spirits and wine by the drink for consumption on the premises may be issued only for premises located within cities of the first, second, [or] third *or fourth* class, or elsewhere in counties containing a city of the first, second, [or] third *or fourth* class if those counties maintain an adequate police force under KRS 70.540 to 70.570 and KRS 70.150 to 70.170.

[(2) Notwithstanding any other provision of law, a special license to sell distilled spirits and wine by the drink for consumption on the premises may be issued for premises located within a city of the fourth class in which the majority of votes cast in the most recent election held pursuant to KRS 242.127 and 242.129 were in favor of the proposition voted upon provided the city has an adequate police force under KRS 95.700 to 95.710 and KRS 95.720 to 95.787.]

(2) [(3)] Licenses to sell distilled spirits or wine by the package may be issued only for premises located within incorporated cities, or elsewhere in counties containing a city of the first, second, [or] third *or fourth* class if those counties maintain an adequate police force under KRS 70.540 to 70.570 and KRS 70.150 to 70.170.

(3) [(4)] Notwithstanding subsection (3), the board may, after a field investigation, issue a license to sell distilled spirits and wine by the package at premises not located within any city if:

(a) Substantial aggregations of population would otherwise not have reasonable access to a licensed vendor;

(b) The premises to be licensed under this subsection shall be used exclusively for the sale of distilled spirits and wine by the package and shall not be used in any manner, in connection with a dance hall, roadhouse, restaurant, store or any other commercial enterprise, except as a drug store in which a registered pharmacist is employed; and

(c) The part of any premises to be licensed under this subsection which is available to the public shall not, except in the case of a drug store, exceed one hundred square feet of floor space and shall not contain any chairs, benches, stools or similar furniture or fixtures.

(4) [(5)] No retail package or drink license for the sale of distilled spirits or wine shall be issued for any premises used as or in connection with the operation of any business in which a substantial part of the commercial transaction consists of selling at retail staple groceries or gasoline and lubricating oil.

Section 4. KRS 242.127 and 242.129 are repealed.

The Committee on Elections and Constitutional Amendments reported **HB 233,** with Committee Amendment attached thereto, and **HCR 13** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 233, AN ACT relating to elections.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 118.590 is amended to read as follows:

(1) Any person seeking the endorsement by a political party for the office of president of the United States who has not been nominated by the state board of elections, or any group organized in this state on behalf of, and with the consent of, such person, may file with the secretary of state certified petitions signed by 1,000 persons who, at the time they sign are registered and qualified voters in this commonwealth and are affiliated, by such registration, with the same political party as the candidate for whom petitions are filed.

(2) Such petitions shall be filed by the petitioners with the secretary of state no later than *fifty-five (55)* [forty-five (45)] days before the date fixed by law for the holding of the primary election.

(3) The petitions must state:

(a) The name of the candidate for nomination and the party of which he is a member;

(b) The name and address of the chairman of the group circulating such petition.

(4) The secretary of state shall forthwith determine the sufficiency of petitions filed with him and shall immediately communicate his determination to the chairman of the group which has filed said petitions.

The Committee Amendment to **HB 233** is as follows:

Amend printed copy of House Bill 233, on page 2, line 6, by adding the following words:

"Section 2. Whereas due to the primary election date on May 25, 1976, an emergency is declared to exist, and this Act shall become effective upon its passage and approval by the Governor."

HR 13, A CONCURRENT RESOLUTION petitioning the United States Congress to implement statutory and Constitutional changes needed to reverse the Supreme Court's ban on prayer and Bible reading in the public schools.

WHEREAS, the formation of this great nation is rich indeed in religious reference, with the Declaration of Independence actually referring to the Supreme Being on four occasions; and

WHEREAS, the children of this country should have the right to learn and practice the patriotic religious heritage left to them by their forefathers; and

WHEREAS, the Supreme Court's ban on prayer and Bible reading in the public school has denied students the opportunity to exercise what is considered to be essential components of American tradition and education by the majority of American citizens; and

WHEREAS, this ban on voluntary prayer and Bible reading has been supported by a narrow and oblique interpretation of a Constitution that was actually founded on a belief in prayer and the Bible; and

WHEREAS, because of the destructive forces that are tearing society apart, today's youth are particularly in need of the regenerative power of prayer and the inspiration provided by the reading of the Bible; and

WHEREAS, this Bicentennial Year is indeed the appropriate time to restore these voluntary expressions of religious principles on which this country was founded;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That the Congress of the United States be charged with the following responsibilities:

(1) Explore all statutory and Constitutional means needed to reverse the Supreme Court's ban on voluntary prayer and Bible reading in the public schools;

(2) Take whatever means necessary to implement statutory and Constitutional changes that would restore voluntary prayer and Bible reading in the public schools.

Section 2. That a duly attested copy of this resolution be transmitted to the Secretary of the Senate, the Clerk of the House of Representatives and each member of Congress from the Commonwealth of Kentucky.

The Committee on Judiciary-Statutes reported **HB 145** and **HB 261** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 145, AN ACT relating to individual rights.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 210.991 is amended to read as follows:

Any person who wilfully causes or conspires with or assists another in causing

(1) the unwarranted hospitalization of any individual under the provisions of KRS chapter[s 202, 203 and] 210 or

(2) the denial of any individual of any of the rights accorded to him under the provisions of KRS chapter[s 202, 203 and] 210 shall be punished by a fine not exceeding five thousand dollars ($5,000) or imprisoned for a term not to exceed five (5) years or both.

Section 2. A new section of KRS Chapter 202 is created to read as follows:

Any person who wilfully causes or conspires with or assists another in causing

(1) the unwarranted hospitalization of any individual under the provisions of KRS Chapter 202, or

(2) the denial of any individual of any of the rights accorded to him under the provisions of KRS Chapter 202 shall be punished by a fine not exceeding five thousand dollars ($5,000) or imprisoned for a term not to exceed five (5) years or both.

Section 3. A new section of KRS Chapter 203 is created to read as follows:

Any person who wilfully causes or conspires with or assists another in causing

(1) the unwarranted hospitalization of any individual under the provisions of KRS Chapter 203, or

(2) the denial of any individual of any of the rights accorded to him under the provisions of KRS Chapter 203 shall be punished by a fine not exceeding five thousand dollars ($5,000) or imprisoned for a term not to exceed five (5) years or both.

HB 261, AN ACT relating to child custody.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 403.260 is amended to read as follows:

(1) A court of this state competent to decide child custody matters has jurisdiction to make a child custody determination by initial or modification decree if *it decides*[:

(a) This state:

1. Is the home state of the child at the time of commencement of the proceeding; or

2. Had been the child's home state within 6 months before commencement of the proceeding and the child is absent from this state because of his removal or retention by a person claiming his custody or for other reason, and a parent or person acting as parent continues to live in this state; or

(b)] *it* [It] is in the best interest of the child that a court of this state assume jurisdiction. [because:

1. The child and his parents, or the child and at least one contestant, have a significant connection with this state; and

2. There is available in this state substantial evidence concerning the child's present future care, protection, training, and personal relationships; or

(c) The child is physically present in this state; and

1. Has been abandoned; or

2. It is necessary in an emergency to protect him because he has been subjected to or threatened with mistreatment or abuse or is neglected or dependent; or

(d) 1. No other state has jurisdiction under prerequisites substantially in accordance with paragraphs (a), (b) or (c) of subsection (1), or another state has declined to exercise jurisdiction on the ground that this state is the more appropriate forum to determine custody of the child; and

2. It is in his best interest that the court assume jurisdiction.

(2) Except under paragraphs (c) and (d) of subsection (1), physical presence in this state of the child, or of the child and one of the contestants, is not alone sufficient to confer jurisdiction on the court of this state to make a child custody determination.

(3) Physical presence of the child, while desirable, is not a prerequisite for jurisdiction to determine his custody.]

(2) [(4)] A child custody proceeding is commenced in the circuit court:

(a) By a parent, by filing a petition:

1. For dissolution or legal separation; or

2. For custody of the child in the county in which he is permanently resident or found; or

(b) By a person other than a parent, by filing a petition for custody of the child in the county in which he is permanently resident or found, but only if he is not in the physical custody of one of his parents.

(3) [(5)] Notice of a child custody proceeding shall be given to the child's parent, guardian, and custodian, who may appear, be heard, and file a responsive pleading. The court, upon a showing of good cause, may permit intervention of other interested parties.

The Committee on Judiciary-Courts reported **HB 186,** with Committee Substitute attached thereto, and **HB 219** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 186, AN ACT relating to Judicial Nominating Commissions and the Judicial Retirement and Removal Commission.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS Chapter 34 is established and a new section thereof is created to read as follows:

(1) Members of Judicial Nominating Commissions, both statewide and local, shall hold office for a term of four (4) years and until such time as their successors shall be appointed or elected.

(2) Of those members initially appointed, the appointments shall be as follows:

(a) One member of the political party having the largest number of registered voters and one member of the political party having the second largest number of registered voters shall be appointed for a term of four (4) years; and

(b) One member of the political party having the largest number of registered voters and one member of the political party having the second largest number of registered voters shall be appointed for a term of two (2) years.

(3) Appointments to fill the unexpired term of a member shall be for the remainder of the term.

(4) Members representing the membership of the Bar shall be elected according to rules promulgated by the Supreme Court with the expenses of the election being paid from the State Treasury.

Section 2. A new section of KRS Chapter 34 is created to read as follows:

Members of Judicial Nominating Commissions and of the Judicial Retirement and Removal Commission shall receive no compensation for their services but shall be paid their actual and necessary expenses for each day spent in the performance of their duties. All claims for expenses shall be approved by the Chief Justice or his designee.

Section 3. Whereas Section 118 of the Constitution of Kentucky became effective January 1, 1976, an emergency is declared to exist, and this Act shall become effective upon its passage and approval by the governor.

The Committee Substitute for **HB 186** is as follows:

HB 186, AN ACT relating to Judicial Nominating Commissions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. KRS CHAPTER 34 IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

(1) Members of Judicial Nominating Commissions, both statewide and local, shall hold office for a term of four (4) years and until such time as their successors shall be appointed or elected, except as provided in Subsection (2).

(2) Of those members appointed by the Governor to the first Judicial Nominating Commissions, the appointments shall be as follows:

(a) One member of the political party having the largest number of registered voters and one member of the political party having the second largest number of registered voters shall be appointed for a term of four

(4) years; and

(b) One member of the political party having the largest number of registered voters and one member of the political party having the second largest number of registered voters shall be appointed for a term of two (2) years.

(3) Thereafter, as each term expires, the vacancy so created shall be filled by an appointee from the same political party for a term of four (4) years.

(4) Appointments or elections to fill the unexpired term of a member shall be for the remainder of the term.

(5) Members representing the Bar shall be elected according to rules promulgated by the Kentucky Bar Association with the expenses of the elections being paid from the State Treasury.

SECTION 2. A NEW SECTION OF KRS CHAPTER 34 IS CREATED TO READ AS FOLLOWS:
Members of Judicial Nominating Commissions shall receive no compensation for their services but shall be paid their actual and necessary expenses for each day spent in the performance of their duties. All claims for expenses shall be approved by the Chief Justice or his designee.

Section 3. Whereas Section 118 of the Constitution of Kentucky became effective January 1, 1976, an emergency is declared to exist, and this Act shall become effective upon its passage and approval by the Governor.

HB 219, AN ACT relating to juvenile courts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 208.020 is amended to read as follows:

(1) The juvenile session of the county court of each county shall have exclusive jurisdiction in proceedings concerning any child living, or found within the county who has not reached his eighteenth birthday:

(a) Who has committed a public offense, except a moving motor vehicle offense, involving a child sixteen (16) years of age or older. The court shall not have jurisdiction in any prosecution of a moving motor vehicle offense involving a child sixteen (16) years of age or older. Juvenile offenders sixteen (16) years of age or older accused of moving motor vehicle offenses shall be treated as any adult offender; provided, however, that the term "moving motor vehicle offense" shall not be deemed to include the offense of stealing or converting a motor vehicle nor operating the same without the owner's consent, nor any offense which constitutes a felony; or

(b) Who does not subject himself to the reasonable control of his parents, teacher, guardian or custodian, by reason of being wayward or habitually disobedient; or

(c) Who is an habitual truant from home or from school; or

(d) Who is found by the court to be dependent, neglected, needy or abandoned.

(2) The court of each county wherein a public offense, as defined in paragraph (a) of subsection (1) of this section, is committed by a child who is a resident of another county of this state, shall have concurrent jurisdiction over such child with the court of the county wherein the child resides, or the court of the county where the child is found. Whichever court first acquires jurisdiction of such child may proceed to final disposition of his case, or, in its discretion may make an order transferring the case to the court of the county of his residence, or the county wherein the offense was committed, as the case may be.

(3) The court of each county shall have exclusive jurisdiction of persons charged with violations of KRS 530.060 and 530.070.

(4) The court shall have exclusive jurisdiction of persons who and no person shall wilfully and unnecessarily expose to the inclemency of the weather, or in any other manner wilfully injure in health or limb any child actually or apparently under the age of sixteen (16) years.

(5) The court shall have exclusive jurisdiction of persons who and no person shall for gain or reward employ or cause to be employed, or exhibit, use, or have in his custody for the purpose of exhibiting, or employing, any child actually or apparently under the age of sixteen (16) years, nor shall any person having the care, custody, or control of such child, in any way procure, or consent for gain or reward, to the employment or exhibition of such child, either:

(a) In begging or receiving alms, or in any mendicant occupation;

(b) In any indecent or immoral occupation or practice;

(c) In the exhibition of any such child when insane, or idiotic; or

(d) In any practice or exhibition of unusual danger to life, limb, health or morals of the child.

(6) Any person, over whom the court has jurisdiction under subsections (3), (4) or (5) of this section, shall be entitled to a trial by jury.

(7) [(6)] Nothing in this chapter shall deprive other courts of the jurisdiction to determine the custody or guardianship of children upon writs of habeas corpus, or to determine the custody or guardianship of children when such custody or guardianship is incidental to the determination of other causes pending in such other courts; nor shall anything in this chapter affect the jurisdiction of circuit courts over adoptions and proceedings for termination of parental rights. The juvenile court shall have no jurisdiction to make permanent awards of custody of a child, but if the court finds an emergency to exist affecting the welfare of a child, it may make temporary orders for its custody, pending the outcome of proceedings in circuit court to determine its permanent custody. Such orders shall be entirely without prejudice to the proceedings for permanent custody of the child, and shall remain in effect until modified or set aside by the court. Upon the entry of a temporary or final judgment in the circuit court, awarding custody of such child, all prior orders of the juvenile court in conflict therewith shall be deemed canceled.

Section 2. KRS 208.060 is amended to read as follows:

(1) All cases involving children brought before the court shall be granted a speedy hearing and shall be dealt with by the juvenile court at separate hearings and without a jury *except that a trial by jury may be had in accordance with the provisions of KRS 208.020(3), (4) and (5).* The hearings may be conducted in an informal manner. The general public shall be excluded and only the immediate families of the parties before the court, witnesses necessary for the prosecution and defense of the case, the probation worker with direct interest in the case, those persons enumerated under KRS 208.040, such persons admitted as the judge shall find have a direct interest in the case or in the work of the court, and such other persons as agreed to by the child and his attorney may be admitted to the hearing. Witnesses shall be admitted to the hearing only for the duration of their testimony.

(2) Juvenile proceedings shall consist of two distinct hearings, an adjudication and a disposition, which may, upon motion of the child, be held on separate days.

(a) The adjudication shall determine the truth or falsity of the allegations in the petition and shall be made on the basis of an admission or confession of the child to the court or by the taking of evidence.

(b) Upon motion by any child brought before the court on a petition under KRS 208.020 (1) (a), (b), or (c), the Rules of Criminal Procedure shall apply to all matters involved in the adjudication of the case. All adjudications shall be supported by evidence beyond a reasonable doubt.

(c) After adjudication, the court shall determine whether the circumstances surrounding the child are such as to endanger his safety or welfare or that of the community and warrant his detention pending the disposition.

(d) The disposition shall determine the action to be taken by the court on behalf of, and in the best interest of, the child. Unless the provisions of subsections (3) and (4) are observed by the court, the disposition shall be limited to an informal adjustment of the matter between the parties and the court. The provisions of subsections (3) and (4) shall be conditions precedent to any commitment, court-ordered probation, restitution, or other disposition enforceable by the authority of the court. No public or private agency or body, or party before the court, shall be required to participate in any order of the court unless it receives from the court a verified statement, signed by the juvenile judge, that the rights enumerated in subsections (3) and (4) were granted to the child during the proceedings in juvenile court.

(3) Before commencing a hearing and proceeding to determine the truth or falsity of the allegations in a petition filed with the court under KRS 208.020 (1) (a), (b), or (c), the court shall decide, on the basis of a preliminary inquiry made by the court, whether or not the best interest of the child indicates that the petition should be dismissed and the child's case adjusted informally among the parties. An informal adjustment may be made at any time during the proceedings. All petitions brought under KRS 208.020 (1) (a), (b), or (c) shall receive this consideration by the court. No petition shall be brought against the child as a result of information given to the court by the child as part of an informal adjustment. If the court finds it necessary to extend the discussion, during an informal adjustment, beyond the immediate subject matter of the complaint before it, the child and his parents, relative, guardian, or custodian shall be advised of all the rights under this subsection. If the court determines that a formal proceeding is required to determine the truth or falsity of the allegations against the child, a petition, sworn to by the complainant, shall be required pursuant to KRS 208.070 (1) and (2), and the court shall, when the child is brought before the court:

(a) Explain to the child and his parents, relative, guardian, or custodian their respective rights to counsel and, if the child and his parents, relative, guardian, or custodian are unable to obtain counsel, shall appoint counsel for the child and may appoint counsel for the parents, relative, guardian, or custodian;

(b) Explain the privilege against self-incrimination by saying that the child, parents, relative, guardian, or custodian may remain silent concerning the charges against the child, and that anything said may be used against the child and result in his commitment to an institution for juvenile delinquents;

(c) Explain the right to confront anyone who has accused the child and to cross-examine that person on the allegations made against the child;

(d) Advise the child and his parents, relative, guardian, or custodian of the right to appeal from a determination of the court;

(e) Advise the child that these rights belong to him and may not be waived by his parents, relative, guardian, or custodian.

(4) At the disposition of a child adjudicated on a petition brought pursuant to KRS 208.020 (1) (a), (b), or (c), all information helpful in making a proper disposition, including oral and written reports, may be received by the court and relied upon to the extent of their probative value, provided that the parties or their counsel shall be afforded an opportunity to examine and controvert the reports and cross-examine the individuals making the reports.

(5) In the case of any child brought before the court on a petition under KRS 208.020 (1) (d), the rules of evidence and procedure described in subsection (3) of this section shall apply.

The Committee on Rules reported on **HB 178** has been posted for passage in Orders of the Day, January 29, 1976.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Cities: **HB 189, HB 190.**

The Clerk announced the following Bills and Resolutions have been withdrawn from Committee consideration:

Cities: **HB 49.**

Judiciary-Courts: **HB 97.**

Calendar

HB 40, HB 54, HB 193, HB 180, HB 72, HB 75, HB 85, HB 87, HB 141 with Committee Amendment attached thereto, and **HB 217** taken from the Calendar and ordered read at length for the second time. Representative B. Richardson moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Report on Enrolled Bills

The Committee on Enrollment reported **HR 21** had been examined and found correctly enrolled. **HR 21** read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate.

HR 21 delivered to the Senate, signed by President. Ordered delivered to the Governor.

Motions, Petitions and Communications

The Speaker appointed a committee composed of Representatives Boatwright, DeMarcus, Isler, Craddock, and Morgan to join with a like committee of the Senate to wait upon the Honorable Julian M. Carroll, Governor of the Commonwealth of Kentucky, and invite him to address a Joint Session of the General Assembly to present his budget recommendations to the 1976 General Assembly.

Representative Hardwick requested that he be recorded as changing his vote from "nay" to "yea" on **SB 69.**

Representative Schmidt moved the adoption of the following Legislative Citation No. 6:

The House of Representatives of the Commonwealth of Kentucky hereby recognizes Mr. Chester Geaslen of Fort Wright, Kentucky, author, raconteur, and most especially an historian of events in Northern Kentucky, and extends congratulations on the occasion of his eightieth birthday, wishing him many more fruitful years. (Sponsored by Representatives DeFalaise and Schmidt)

Agreed.

Representative Guenthner moved the adoption of the following **HR 34:**

HR 34, A RESOLUTION urging the U.S. Congress to prohibit federal funding of the Peoples Bicentennial Commission.

WHEREAS, the so-called Peoples Bicentennial Commission exhibits in its documents and propaganda a view and philosophy contrary to all cherished American beliefs in free enterprise, private wealth and freedom of choice; and

WHEREAS, this self-designated organization, without official sanction whatsoever, has relied upon its chosen label in this bicentennial year of the United States to dupe the public as to its official status, and has by this means purveyed to public schools and libraries across the country over 100,000 copies of its publication called "Common Sense II;" and

WHEREAS, by such identical misnomer and illusion the Peoples Bicentennial Commission has obtained from the National Endowment for the Humanities, a federally funded association, a grant of some $394,000 to use in advancement of its collectivist proposals;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Congress of the United States be and it hereby is urged, beseeched and implored to prevent any further or subsequent use of public tax moneys for support of the Peoples Bicentennial Commission.

Section 2. That the Clerk be directed to transmit a copy of this resolution to the President of the Senate and the Speaker of the House of Representatives of the United States Congress, and to each member thereof from the Commonwealth of Kentucky.

HR 34 was adopted by voice vote.

Representative Imes moved that **HB 326** be withdrawn. Agreed.

Representative Morris moved the adoption of the following **HR 35:**

HR 35, A RESOLUTION requesting a greater effort in controlling drug traffic around military bases.

WHEREAS, the military installations of Fort Knox and Fort Campbell, Kentucky have a major effect on those citizens of this great Commonwealth living nearby; and

WHEREAS, military personnel stationed at these military facilities mingle, live in communities nearby, send their children to the Commonwealth's public schools, and generally associate with the citizens of this great Commonwealth; and

WHEREAS, a significant number of persons stationed at Fort Knox and Fort Campbell, Kentucky have been stationed in far off locations such a Viet Nam, Thailand, and other foreign soils where narcotic problems develop; and

WHEREAS, many of these unfortunate young men have been saddled with the burden of a drug problem and have brought these problems to Fort Knox and Fort Campbell; and

WHEREAS, the fine citizens of this Commonwealth living in the vicinity of these military installations are being adversely affected by the drug problems; and

WHEREAS, this drug problem constitutes a severe and extreme hardship for these fine citizens; and

WHEREAS, the Kentucky State Police, an outstanding law enforcement agency, has the major responsibility for eradicating this drug problem around Fort Knox and Fort Campbell, Kentucky;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Kentucky State Police greatly increase their efforts to relieve the citizens of this great Commonwealth of the insidious drug problem.

Section 2. That the Kentucky State Police concentrate their resources on apprehending those persons who traffic in the sales of dangerous drugs and narcotic substances in those areas nearby Fort Knox and Fort Campbell.

Section 3. That the Clerk be directed to transmit a copy of this resolution to Mr. Truett Ricks, Commissioner of State Police.

HR 35 was adopted by voice vote.

Representative Clarke moved that **HB 55** be referred back to the Committe on Rules. Agreed.

Orders of the Day

Representative B. Richardson moved that consideration of **HB 24** be deferred and that it retain its position in Orders of the Day.

On the roll call the vote was yeas 43-B. Adams, Arnold, Bendl, Benson, Beshear, Blandford, Brown, Carpenter, Clapp, Clarke, Crupper, Cyrus, DeFalaise, Dietz, Donnermeyer, Dunn, Foster, Gray, Guenthner, Holbrook, Jones, Kenton, King, LeMaster, Mann, Mason, May, McBee, McBride, Morris, O'Brien, Richards, B. Richardson, Sale, Schmidt, Siemens, Stephens, Stewart, Thomas, J. Turner, White, Wible, Yates. Nays 12-A. S. Adams, Blair, Burnette, Craddock, Doss, Fitzgerald, Freeman, Hughes, Muncy, Pearl, Robinson, R. Turner.

The motion that consideration of **HB 24** be deferred and that it retain its position in Orders of the Day was adopted.

HB 188 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Overstreet moved the adoption of the following Floor Amendment No. 3 to **HB 188:**

Amend printed copy of House Bill 188, on page 1, line 4, by inserting before "an" the following words "a legally incompetent person.", and by inserting after "person" before "an" a bracket and by inserting after "lunatic" a bracket before the semicolon.

Agreed.

Representative B. Adams moved that **HB 188** as amended be passed.

On the roll call the vote was yeas 79-B. Adams, A. S. Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blandford, Brinkley, Brown, Bruce, Burnette, Carpenter, Clapp, Craddock, Crupper, Cyrus, Dawahare, DeFalaise, Deskins, Doss, Dunn, Fitzgerald, Floyd, Foster, Givhan, Gray, Guenthner, Hancock, Hardwick, Head, Holbrook, Holloway, Hopkins, Hughes, Hurst, Imes, Jones, Kenton, Kidd, King, Kleier, LeMaster, Lindsay, Mann, Mason, Maynard, McBee, McGill, Morris, Muncy, O'Brien, Overstreet, Pearl, Priddy, Richards, B. Richardson, P. Richardson, Robinson, Romines, Sale, Schmidt, Siemens, Siler, Stephens, Stewart, Tobin, J. Turner, R. Turner, Vincent, White, Wible, Wooden, Wright, Yates. Nays 4-Clarke, Cooper, Denham, McBride.

HB 188 as amended was passed and the title agreed to.

Representative B. Adams moved that the vote by which **HB 188** as amended was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative B. Richardson moved that consideration of **HB 67** be deferred and that it retain its position in Orders of the Day. Agreed.

The Committee appointed to wait upon the Governor reported that the Governor was ready to address the Joint Session.

Representative B. Richardson moved that the House resolve itself into a Committee of the Whole to go into Joint Session with the Senate. Agreed.

The Honorable Thelma L. Stovall, Lieutenant Governor and President of the Senate, and the members of the Senate entered upon the floor of the House.

The Speaker recognized the Honorable Thelma L. Stovall, Lieutenant Governor and President of the Senate, and the members of the Senate.

Joint Session

The Speaker vacated the Chair, whereupon the Honorable Thelma L. Stovall, Leiutenant Governor and President of the Senate, assumed the Chair and called the Joint Session to order.

Representative B. Richardson moved that the House and Senate resolve into Joint Session for the purpose of hearing the presentation of budget recommendations by the Honorable Julian M. Carroll, Governor of Kentucky. Agreed.

Representative B. Richardson moved that the Joint Session of the House and Senate dispense with the call of the roll. Agreed.

Prayer by Dr. Robert Laughlin, First Presbyterian Church, Frankfort.

The Committee of the House, appointed to join with a like committee of the Senate to wait upon the Governor and escort him to the House to address the Joint Session, appeared with the Governor.

Lieutenant Governor Thelma L. Stovall introduced the Honorable Julian M. Carroll, Governor of Kentucky.

Governor Carroll addressed the Joint Session of the General Assembly, as follows:

Lieutenant Governor Stovall, Speaker Kenton, Members of the General Assembly, Members of the Judiciary, Members of the Executive Cabinet, Ladies and Gentlemen.

We are gathered tonight for the second joint session of the 1976 General Assembly; this time to receive the Executive Budget recommendations required by our Constitution and Enactments of the Legislature.

Those recommendations I now present for your consideration are the result of many months of a substantive, exhaustive and time-consuming, decision-making process. Therefore, these recommendations reflect my personal philosophy of applying a common sense approach to the allocation of our taxpayers' hard-earned dollars which we hold in trust.

I have said to you before that it is an insult to our common sense to suggest that better government can come only from more spending, or that more spending necessarily brings better government.

The objective of this common sense approach for may administration is to keep my pledge to the people of Kentucky and prevent any tax increase on our consumers. Within the framework of a responsible and conservative fiscal policy, this ojective will be met. Furthermore, I sincerely believe that the recommendations contained in my Executive Budget reflect an equitable compromise between the demands for service from our state government in this decade and the fiscal constraints which must be observed if my pledge of no new taxes on our consumers is to be kept.

It is my consensus that you are willing to help me keep that pledge. Thus, I owe you the obligation of pointing out the "fiscal pitfalls" I have avoided in order to insure, as far as humanly possible, that our spending levels during this administration do not exceed our financial resources.

I have developed policies that hopefully will allow us to avoid each "fiscal pitfall." While you are aware of those policies, it is imperative to a full understanding of my budget that I now emphasize each such policy.

1. I have not recommended, and I do not intend to use, any revenue bonds for capital construction which will require future appropriations to retire principal and interest. As I have advised you, I am requesting appropriations for previously authorized but unsold revenue bond issues that will reduce the annual debt retirement enough to make the projects self-sustaining without additional appropriations in this or future Executive Budgets. We can fully appreciate the magnitude of this problem and the importance of this policy when we see the annual interest on the state debt that this budget contains is $85 million.

2. I do not intend to continue the practice of permitting the Federal Government to establish program priorities for Kentucky as we fall captive to the lure of the federal dollar. Our policy will allow acceptance of federal money only when that support is genuinely needed and when it defrays costs to the Kentucky taxpayers. Kentucky should not support now, from federal funds, what it will not support later from state funds. The only major exception to be considered is when the project is principally of a non-recurring nature. We can fully appreciate the mangitude of this problem and the importance of this policy when we see that our agency budgets contained requests for $30 million to replace lost federal funds.

3. The power of appropriating state money must be returned to the General Assembly. As I have said before, there is absolutely no incentive for state agencies to establish clear priorities, or manage their finances in a responsible manner, if they know that, when the money runs out, the Governor can give them more. Average citizens cannot arbitrarily increase their take-home pay when the cost-of-living goes up, and state government should be no different.

A recurring agency expense in this present fiscal year must be appropriated in each year of our biennial budget. We can fully understand the magnitude of this problem and the importance of this policy when we see that the agency budgets included requests in the amount of $64.7 million. And we have recommended the appropriation of $55.3 million for current-year expenditures which are also repeated in each year of the biennial budget.

4. State government cannot continue to grow like a snowball rolling down a hill. The number of employes must be controlled. My policy will be to improve the productivity of present employes, rather than continually adding more employes in hopes of improving service. Quality rather than quantity will be our guide. Toward this end, I have already established a personnel audit unit in the office of the Secretary of the Cabinet to monitor personnel complements and insure quality control in the whole area of personnel management. In addition, we must recognize that the productivity of present employes is directly related to the manner in which they are compensated. Therefore, I propose to restructure our state pay plan which should improve the incentive for productivity.

We can fully appreciate the magnitude of this problem and the importance of this policy when we realize that state government permanent full-time employment has grown 65 percent in the last 10 years, and the payroll has risen from some $9 million to $28 million monthly during that same period.

5. Even when appropriated funds are available, we should not commit ourselves to a particular capital expenditure for a project until we know two things: Does the structure fulfill state program and policy needs, and what will it cost to build it? Presently, there appears to be little consideration given to the minimum needs of a structure. In many instances, it appears that a particular building was designed to spend a certain sum of money thought to be available for its construction. The time of splendor and monuments of glass and marble is gone.

We must build now only what we can clearly justify and then we must not over-design the structure and incur needless spending of our taxpayer's money. Additionally, design standards should take into account public accessibility and energy and environmental considerations. The magnitude of this problem and the importance of this policy can be fully grasped when we realize that in this budget, we have been forced to ask you to support the expenditure of $55 million to complete the construction of buildings previously authorized. I think you should be made aware of one additional fact in this regard: We have included in this biennial budget a yearly request for $15 million to pay the operating expenses of buildings now under construction.

6. There is one further policy which I might denote as the most important of all these policies as far as this particular budget recommendation is concerned. As I have said before, Kentucky was extremely fortunate last fiscal year in its collection of general fund revenues. A recent report showed that 37 states were suffering serious financial difficulty because of inflation. However, Kentucky's coal-related economy helped us reap unprecedented profits and as a result contributed higher revenues than estimated to Kentucky's tax coffers, thus building a one-time surplus.

Sound fiscal management dictates that these non-recurring dollars be put to work in areas that will not create a continuing cost to the state. that is why I have recommended putting these dollars to work in such areas as debt reduction grant matching programs, local development programs, and major maintenance and replacement of buildings and equipment. We can fully appreciate the magnitude of this problem and the significance of this policy when we realize that should we spend this one-time money in each year of the biennium as a recurring expense, we would probably consume 100 percent of our new growth money for the last biennium of this administration. This could well necessitate a tax increase in the next biennium in the amount of $250 million. Since I cannot support and have no intention of recommending such a tax increase, I must caution you to leave this one-time money in non-recurring appropriations.

Thus, if this budget could be characterized, I would contend that it is fiscally responsible while recognizing the real needs of our people with concern and compassion. It does not reflect massive new programs, but rather a strengthening and restructuring of existing programs. It is based upon my strong conviction that this is a time for realism, a time to ride ourselves of financial drains on our limited resources, a time for rethinking our goals, a time to reform our stragegy and at last time to correct some chronic and persistent ills.

It is my belief that the process of appropriating and expending our financial resources is the key to responsible management of state government. We are determined to strengthen the program budget concept that seeks accountability for the proper expenditure of appropriated funds. And, I might add that I look forward to cooperating with the standing and interim committees in this important endeavor.

I can tell you I have already substantially implemented the internal financial audit system and, as previously mentioned, I have recently begun a new procedure called Internal Personnel Auditing.

As you know, early in the budget process I established guidelines for our agencies to follow in preparing their requests for continued funding. It was my belief that rigorous scrutiny backed by an austere approach would result in recommendations for continued essential services. This would allow us to free up additional funds for greatly needed expansion in elementary and secondary education, as well as in other areas. For example, my recommendation for the expenditure of state funds in the general administration program of the Department of Justice is 6.4 percent below the current figure. Likewise, I am recommending a 3.6 percent decrease in state funds for administration and support services in the Department for Human Resources.

This tough fiscal posture regarding the continuation costs can also be illustrated in two important programmatic areas:

My continuation recommendation for health services is 1.2% less than the current year budgeted figure, while the state police continuation budget increases but 2.6%. It is important to note, however, that in both these areas, better management of our existing resources will still allow us to provide additional needed services to our citizens. This budget, thus, can also be described as a "needs budget."

This overall policy of fiscal restraint has permitted my administration to concentrate on a series of top priority expanded programs. These programs reward local initiatives, enhance economic and energy development, respond to health needs of our citizens—articularly our senior citizens—nd of course, provide a long-awaited shot in the arm to Kentucky's elementary and secondary school system. Foremost among my priorities for the Commonwealth of Kentucky has been the need to significantly upgrade the quality of the public elementary and secondary schools. That goal is reflected as the top priority in the Executive Budget.

In this budget I am presenting tonight, state support for elementary and secondary education and related functions will exceed one-half billion dollars each year of the biennium for the first time in our history. I am recommending to you a $147 million increase in expanded and new general fund support for our elementary and secondary schools for the upcoming biennium. This amounts to a 23.2% general fund increase in fiscal year 1977 and another 12.5% in fiscal year 1978 for a total biennial increase of 38.6%. Substantial increased benefits are recommended for our students, our teachers, local district employes and retired teachers.

I have included in the Executive Budget $7.6 million to provide free textbooks for all students in all grades by the end of this administration. Funding in the present biennium will allow high school seniors the opportunity to sell some of their social studies books prior to leaving school this spring. Additional subject areas will be purchased by the state each year thereafter until all high school texts are free to students by the end of this administration. I had hoped we could implement our free textbook program this next school year, but the Department of Education advised me our present contract replacement schedule for textbooks will require up to four years.

As I have said before, our students should not be charged fees for required courses vital to their education. Thus, I have included a $9 million biennial appropriation in this budget to replace these fees with state dollars. This onerous student and parental burden can be lifted if you concur in this recommendation in my executive budget. Of course, it will be necessary for students to continue paying for the costs of items which become their personal property.

This budget rapidly escalates our support for exceptional children, kindergartens, and vocatinal rehabilitation. Funds have been provided in the Executive Budget for increasing the number of exceptional classes by 800 next year and by another 600 in 1977-78. This is a 57% increase over the last biennium. The number of kindergartens has been increased by 150 aditional units for each year of the biennium. The number of vocational units has been increased by 228 in 1976-77 and by 274 in the 1977-78 for a total of 502 new units over the two year period.

This is a 150 percent increase in the number of kindergarten units over the last biennium.

Hopefully, the addition of kindergartens will reduce the number of children repeating the first grade. Over $6.2 million is spent in Kentucky each year for children to repeat the first grade. Increased vocational rehabilitation funding in the amount of $376,000 for 1976-77 and $465,000 in 1977-78 will be used to finance training and medical treatment for individuals who are unemployable due to a handicap.

While I do so with some reservation, I have included in the Executive Budget the innovative concept referred to as power equalization. I support this concept which is designed to equalize the financial burden involved in financing quality public schools from widely different property tax revenues generated at the local level. $10.5 million in new state general fund support has been included in may recommendation for fiscal year 1978 to equalize 5 cents of the property tax above the 30 cent level currently required for participation in the foundation program. The version of the power equalization plan funded in the 1976-78 Executive Budget mandates no local tax increases, but leaves such decisions to local communities through a vote of the people. I sincerely believe that we should not further fund this program until we use this partial funding to initiate the concept and confirm its validity.

I am convinced that this $10.5 million in additional funds will upgrade the quality of education in those school districts least able to afford it on their own.

Kentucky's elementary and secondary school teachers can look forward to a substantial pay raise if the General Assembly will join me in the $67 million salary increase I have recommended. Under this proposal, the average increase for teachers funded through the state foundation program will be $2,000 over the next biennium. This $2,000 increase has been funded in the amount of $1,200 for 1976-77 and another $800 for 1977-78. This will represent a 22% increase to the average teacher over the next two years. Should the salaries in the seven surrounding states increase by 6% each year, Kentucky would be within $616 of their average by the end of fiscal 1978.

Excluding Illinois from the calculations, Kentucky would be within approximately $122 of the average teachers' salaries in the six surrounding states. Thus, you can see that my goal of increasing Kentucky's teachers' salaries to a parity with our seven surrounding states can become a reality during my administration.

The new comprehensive medical insurance that will cover certified and non-certified personnel in Kentucky's school districts has been fully funded in each year of the biennium at a total cost of $33 million. The value of this benefit in gross income per teacher is approximately another $300 annually.

Retired teachers will benefit from increased state funding of over $18 million into their retirement system. New benefits include replacement of the temporary cost-of-living bonuses by providing increases of 3% for each year of retirement from from July 1, 1971, to July 1, 1976. Further, beginning in fiscal year 1977 retired teachers will receive an additional $2.00 each month for every year of prior service and another $2.00 per month beginning in fiscal year 1978.

My retired teachers package also includes increased benefits of $25 a month for former teachers who retired for disability reasons prior to July 1, 1964.

We have not ignored the great impact of increased prices from inflation upon our school districts. I have included an additional $6.4 million this current fiscal year for operating expenses. I have further recommended increases in the local operating expenses of 8% for each year which we are told should equal or maybe exceed the cost of inflation.

If surrounding states increase funding during the biennium at the same pace they averaged from 1973-74 to 1974-75, Kentucky will exceed the average state revenue per pupil of the seven surrounding states by about $190. In 1974-75 Kentucky ranked approximately 23rd among the states in state support per pupil in average daily attendance. If other states increase their support by 8.3% annually, which is the average increase per pupil funding between 1973-74 and 1974-75, Kentucky could increase its ranking to 14th in 1977-78. Kentucky's per pupil expenditures based on federal, state and local funds will probably remain relatively low when compared with our sister states because of minimal local support. However, it is possible that by the end of 1977-78 Kentucky will have risen from 49th among the states to 39th, due primarily to substantial increases in state support in this budget.

This is based on the assumption that other states increase per pupil expenditures at an annual 9% rate, which according to the national education association, denotes past trends. I know you share the hope with me that we can achieve and retain that kind of support for elementary and secondary education in Kentucky.

My budget clearly establishes my firm support for vocational education. Existing programs will be expanded by the infusion of over $2,000,000 into the direct operation of our vocational education schools over the next two years. The adult education program will receive $458,000 over the next two years to provide additional classes in instruction leading to a high school diploma or a general equivalency certificate. A new concept, competency based vocational education, will be implemented statewide over the next two years at a cost in excess of $1 million for the 1976-78 biennium.

A state capital construction budget in the amount of $10 million will bring an equal amount in federal and local matching funds enabling us to build a number of badly needed vocational schools.

Kentucky has one of the finest programs of education for blind and deaf children in the nation. I not only intend to see that this excellence continues, but is increased. That is why I have recommended the operating budgets for the schools for the deaf and the blind to increase by some 28% and 26% respectively.

Higher education is an area that has long been considered "sacred" in the budgetary process. While I have funded the critical needs of our institutions, my recommended budget removes any such notion concerning higher education programs. We are no longer in the golden age of higher education growth and my budget does not contemplate a return to that golden age. Rather, I perceive that we have moved into a new era of critical choices for our statewide system of higher learning.

The funding level recommended for our institutions preserves our great accomplishments and corrects the deficiencies which have caused our accreditation to be questioned in some areas. Additionally, I have replaced some loss in federal funds and have recommended expansion of programs where it appeared to be fully justified. However, I found it necessary to trim the council on public higher education recommendations for institutional budgets by 40%.

My recommendations in this area mean smaller percentage increases for our colleges and universities when compared to recent higher education budgets—ut we must learn to make do with what we have, and achieve our expectations with available resources. The era of budgetary sacrifice is here.

This budget provides for full funding for the University of Louisville and recommends the funding necessary to support University status for Northern Kentucky College. Thus, we have brought the University of Louisville and Northern Kentucky College into the state system as full partners and have at the same time preserved the excellence of our other institutions of higher learning in Kentucky.

We have long recognized that the prosperity of our state is directly linked to the health of our citizens. Our program, reflected in this budget, is designed to fulfill two important objectives. These are:

1. To improve the delivery of health services while trimming administrative expense, and
2. To reward local initiative in the delivery of health services.

The budget continues to provide for existing services and requests over $5.5 million in new revenue for expansion.

My program priorities in the health services area relate primarily to child services, the needs of those who suffer from mental illness, and the delivery of health services on the local level.

Through program modifications in the Department for Human Resources, we have reduced 12 major program areas to six, and reduced the number of sub-programs from 66 to 39.

These changes will assure that a greater amount of money spent in the health services area will go directly to the delivery of service to the public.

It is our belief that local health departments constitute the backbone of the state's system of public health care delivery. Consistent with this philosophy, we are recommending $2 million to establish a state and local matching program designed to upgrade district and county health department buildings. This program, to be implemented on a 50-50 state and local basis, will allow for much-needed repairs renovations, additions and expansion.

We are also recommending $2 million in program grants for local health departments. Our recommendation will increase the state share in the local health department grant program by 29 percent.

We are requesting $1.8 million to provide for elimination of the surgical waiting list for children who require corrective surgery and supported services. It is my belief, and a keystone of our health care program, that disabilities in children which can be corrected early should receive high priority. In human terms, this will enable children to lead normal, happy and health lives. Fiscally, this philosophy will prevent continued expenditure of public funds to treat chronic problems that could have and should have been corrected early.

We have also requested $877,000 for expansion programs for inpatient and outpatient treatment of mental illness.

I have requested $660,000 for programs which will provide full-scale diagnosis and evaluation for the mentally retarded, as well as provide day care treatment, training and partial hospitalization services.

Establishment of clinical programs at Harlan, Prestonsburg and Ashland will make health services available to children who would otherwise be denied them because of transportation difficulties.

I have asked for money to continue the medicaid program without reducing current payment levels, despite the rapidly increasing case loads in the benefit programs.

This budget recommends $3.5 million in capital construction funds for the renovation and repair of Western State Hospital in Hopkinsville, Eastern State Hospital in Lexington, Hazelwood Hospital in Louisville and River Region Hospital in Eastern Jefferson County.

I will have more to say later on my program for our senior citizens. Recommended appropriations in this budget will support vital services for our senior citizens such as home delivered meals, day care, homemaker services, foster care, home health care, adult abuse and transportation services.

There are three major areas covered by this budget which have yet to be fully delineated, drafted, and ready for introduction for consideration by the General Assembly. First, is my major tax reform relief package, second is my crime package, and third is my economic development package.

The questions on economic development yet to be resolved include the issue of severance tax on coal refund to coal producing counties. I have since 1970 supported the concept of coal counties receiving a portion of the coal severance tax. I have done so because the presence of their coal reserves effectively excludes that land from economic development and thus higher assessment for increased ad valorem property taxes.

I still support that concept. Like most of the members of the General Assembly from the coal county area, I am concerned over the present guidelines setting the priorities under which these funds are spent. I am also concerned that the allocations bear little resemblance to the needs of all of these counties.

Thus, I hope that together we can develop a program that will continue to effectively meet the critical needs of our coal-producing counties. At the same time I want us to concern ourselves with the critical needs of our other counties in the area of economic development.

There is one other major funding question I would like to again mention—hat is the question of forced busing in Jefferson County. As you know, I have sued the Federal Government in hopes that the Federal Court would require the U. S. Congress to fund forced busing. In order to effectively maintain that position, I must exclude funding from this budget. Therefore, the following provision is included in my budget bill:

> "Notwithstanding the provisions of KRS 157.370, no funds shall be expended for the purpose of providing transportation beyond the nearest school in which the child can be placed within a local school district to students enrolled in the public schools."

The Kentucky electorate ratified a complete overhaul of our nineteenth century court system in the November elections. My recommendations reflect a complete endorsement of the Court of Justice request submitted by Supreme Court Chief Justice Scott Reed.

Prompt implementation of the top three tiers of the new system, the Supreme Court, Court of Appeals and Circuit Courts will be effected through an additional $587,000 recommended for a current year appropriation, while full implementation and funding of the District Court apparatus, commencing in January, 1978, is being deferred for a special session of the General Assembly.

The recommended courts budget provides for $15.7 million in general fund support for the biennium, and provides for an additional $4.5 million in federal support for the new system. These recommended expenditures permit significant upgrading and reorganization of each component of the new court in keeping with the spirit of the constitutional amendment.

There are numerous other programs in this budget that I would like to mention if time permitted. However, one of those programs deserves special comment tonight.

I am recommending to you that you create an uninsured investors claim fund and appropriate $8 million to pay up to 95 percent of the amount 11,425 investors lost when prudential savings and loan went bankrupt. Nearly four years ago, these 11,425 investors, most of whom are Kentuckians, lost their savings when this firm went under through mismanagement.

This recommendation represents this administration's compassion for individuals who relied upon their state government to protect their lifesavings. I want to prove that government is not cold but rather does have a heart and can respond to a moral obligation in the public interest.

Finally, one word about the revenue estimates on which this budget recommendation is based. The estimates are honest. They represent the best forecast of anticipated income that Department of Revenue experts have been able to provide.

I invite you to question them, to inquire closely about the adequacy of the estimates.

In the event future receipts require adjustment of the estimates, we will work with you in revising our appropriations.

In this matter you will have our fullest cooperation.

Common sense, compassion, and fiscal responsibility—hose are the words I wish to leave you with tonight—or those are the principles which guided me to the recommendations I now present for your collective judgment.

Working together, we can resolve the budgetary issues which confront us; we can consolidate the gains of our predecessors; we can lend substance to those goals we determine to be in the public interest.

If we approach our responsibilities humbly; if our motives are high while our feet are planted firmly on the ground; and if we join in a resolve to reflect in our decisions the common good—hen we can look back on this day with pride and with dignity.

Thank you and good night.

Representative B. Richardson moved that the Joint Session of the House and Senate be dissolved. Agreed.

The Speaker resumed the Chair.

Representative B. Richardson moved that the rules be suspended for the purpose of Introduction of Bills and Resolutions. Agreed.

Introduction of Bills and Resolutions

HB 374, by Representatives B. Richardson and Donnermeyer: AN ACT relating to appropriations for the operation, maintenance, support and functioning of the government of the Commonwealth of Kentucky and its various officers, cabinets, departments, boards, commissions, institutions, subdivisions, agencies, and other state supported activities.

HB 375, by Representatives Clarke and Floyd: AN ACT relating to county buildings.

Adjournment

Representative B. Richardson moved that the House adjourn until 2:00 p.m., Thursday, January 29, 1976.

On the roll call the vote was yeas 70-B. Adams, J. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Carpenter, Cooper, Craddock, Crupper, Cyrus, DeFalaise, DeMarcus, Denham, Dietz, Donnermeyer, Doss, Dunn, Floyd, Foster, Givhan, Gray, Hancock, Hardwick, Head, Holbrook, Hughes, Hurst, Isler, Kenton, Kidd, King, Kleier, LeMaster, Lindsay, Mann, Mason, May, Maynard, McBee, McBride, McGill, Morgan, Morris, Muncy, Nett, Overstreet, Pearl, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Robinson, Romines, Sale, Siemens, Siler, Stephens, Stewart, Tobin, J. Turner, R. Turner, Vincent, White, Wible, Wooden, Yates. Nays 7-W. Allen, Deskins, Fitzgerald, Guenthner, Holloway, Imes, Jones.

The motion to adjourn was adopted.

THURSDAY, JANUARY 29, 1976

NINETEENTH LEGISLATIVE DAY

The House was called to order by Speaker Kenton.

Prayer by Dr. Robert Laughlin, First Presbyterian Church, Frankfort.

The roll was called. All present except Representatives Little and Morgan.

Representative Isler moved that absent members be granted leave of absence in accordance with the prevailing rules of the House. Agreed.

Representative Hughes moved that the reading of the Journal of January 28, 1976, be dispensed with and the same approved. Agreed.

Senate Message

Announcing passage of **SB 20** and **HR 12.**

Introduction of Bills and Resolutions

HB 376, by Representative Donnermeyer: AN ACT relating to Community Action Corporations.

HB 377, by Representatives Siemens, Benson, and Yates: AN ACT relating to buildings.

HB 378, by Representatives Bruce, White, and Morris: AN ACT relating to children.

HB 379, by Representative Dawahare: AN ACT proposing an amendment to Section 88 of the Constitution of Kentucky relating to a veto session of the General Assembly.

HB 380, by Representative DeFalaise: AN ACT relating to income tax.

HB 381, by Representative DeFalaise: AN ACT relating to income tax credits.

HB 382, by Representatives Deskins and Little: AN ACT relating to education.

HB 383, by Representative Schmidt: AN ACT relating to the removal of college and university personnel.

HB 384, by Representatives Muncy, Priddy, Bendl, Bevins, Cooper, Cyrus, Gray, King, Overstreet, Romines, Siler, and Yates: AN ACT relating to railroads.

HB 385, by Representatives Cooper and R. A. Turner: AN ACT relating to trapping.

HB 386, by Representatives Imes: AN ACT relating to elevators.

HB 387, by Representatives Holloway and O'Brien: AN ACT changing the classification of the city of Douglass Hills, in Jefferson County.

HB 388, by Representatives Clarke, Beshear, and Nett: AN ACT relating to public finance.

HB 389, by Representatives Blume, Benson, and Siemens: AN ACT relating to circuit courts.

HJR 36, by Representative Denham: A JOINT RESOLUTION directing the Department of Transportation to designate highway US 68, from Maysville to its junction with state highways KY 32 and KY 36 near Carlisle, as "Henry Ward Highway."

HCR 37, by Representatives Vincent, B. Adams, A. S. Adams, Blandford, Boatwright, Burnette, Crupper, Dietz, Doss, Fitzgerald, Foster, Givhan, Gay, Head, McBee, Nett, Pearl, Richards, P. Richarson, Sale, Siler, Stephens, and Wright: A CONCURRENT RESOLUTION establishing an official Commonwealth of Kentucky Old Time Fiddlers' Convention and Championship thereof.

HJR 38, by Respresentatives Blume, Benson, and Bennett: A JOINT RESOLUTION requesting the University of Kentucky and the University of Louisville to schedule football and basketball games with each other annually.

HR 39, by Representative Givhan: A RESOLUTION relating to publication of information concerning the persistent felon offender.

Report on Enrolled Bills

The Committee on Enrollment reported **HJR 12** had been examined and found correctly enrolled. **HJR 12** read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate.

HJR 12 delivered to the Senate, signed by President. Ordered delivered to the Governor.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Natural Resources: **HB 362.**

Appropriations and Revenue: **HB 366, HB 374.**

Business Organizations and Professions: **HB 368, HB 371.**

Counties and Special Districts: **HB 375, HB 369.**

Judiciary-Statutes: **HB 364, HB 365, HB 370.**

Labor and Industry: **HB 367, HB 372, HB 373.**

State Government: **HB 360, HB 361, HB 363.**

Report of Committees

The Committee on Cities reported **HB 59,** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 59, AN ACT relating to incorporation and general powers of cities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 82 is created to read as follows:

The inhabitants of each city shall constitute a corporation, with power to govern themselves by any ordinance or resolutions for municipal purposes not in conflict with the constitution or laws of the state or of the United States. In its corporate capacity the city may contract and be contracted with and may sue and be sued. It may adopt a common seal and change it at pleasure or act without a seal. It may acquire property for municipal purposes by purchase or otherwise. It may hold all its property either in its own name or in the name of others, to the use of the city, for the purposes for which the property was granted or dedicated, and may use, manage, improve, sell and convey, rent or lease its property.

Section 2. KRS 84.010 is amended to read as follows:
[(1) The inhabitants of each city of the second class shall constitute a corporation with perpetual succession, with power to govern themselves in all fiscal, prudential and municipal concerns by ordinances and resolutions not in conflict with the constitution or statutes of this state or of the United States. In its corporate capacity the city may contract and be contracted with, and may sue and be sued. It may adopt a common seal and change it at pleasure. It may, by ordinance of its legislative body, acquire property for municipal purposes, by lease, purchase or otherwise, within the city limits or elsewhere; hold its property either in its own name or in the name of others, to the use of the city, for the purpose for which the property was granted or dedicated; and use, manage, inclose, improve, rent, lease or dispose of its property, for such purposes and considerations as the city legislative body deems proper for the public welfare.

(2)] The city may, by ordinance of its legislative body, impose, enforce and collect fines, forfeitures or imprisonment, or both fine and imprisonment, for the violation of any provision of the city ordinances or of the statutes relating to the government of cities of the second class.

Section 3. KRS 85.010, 86.010, 87.010 and 88.010 are repealed.

The Committee Amendment to **HB 59** is as follows:

Amend printed copy of House Bill 59 on page 1, line 3, after "city", add "*and urban county*"

and on page 1, line 7 and before line 8, after "city", add "*and urban county*"

and on page 1, line 13 after "city", add "*and urban county*"

and on page 2, line 1 after "class", add "*and urban county*"

and on page 2, line 6, after "city", add "*and urban county*"

and on page 2, line 10 after "city", add "*and urban county*"

and on page 2, line 12 after "city", add "*and urban county*"

and on page 2, line 16 after "city", add "*and urban county*"

and on page 2, line 18 after "city", add "*and urban county*"

and on page 2, line 21 after "city", add "*and urban county*"

and on page 2, line 23 after "class", and "*and urban county*"

The Committee on Health and Welfare reported **HB 82** with Committee Amendment attached thereto, **HB 80,** and **HB 191** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 82, AN ACT relating to persons who are incompetent.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 202.010 is amended to read as follows:
As used in this chapter unless the context otherwise requires:

(1) "Mentally ill person" means a person having a psychiatric or other disease which substantially impairs his mental health;

(2) "Mentally retarded person" means a person with a defect in general intellectual function originating during the developmental period, and which impairs adaptive behavior to such a degree that he requires supervision, care, training, control or custody for his own welfare or for the welfare of others;

(3) "Defendant" means a person alleged in a hearing to be mentally ill or mentally defective;

(4) "Patient" means a person under observation, care or treatment in a hospital pursuant to the provisions of this chapter or KRS chapter 203;

(5) "Physician" means a person licensed under the laws of Kentucky to practice medicine, or a medical officer of the government of the United States while in this state on the performance of his duties;

(6) "Hospital" means a state mental hospital, or institution, or other public or private hospital, institution, medical facility, or part thereof, approved by the department for human resources as equipped to provide in-patient care and treatment for mentally ill or mentally retarded persons; and which is a part of, or has affiliated agreements with, the department for human resources for the care of such persons;

(7) "State mental hospital" means a hospital or institution, or part thereof operated by the department for human resources;

(8) "Department" means the department for human resources;

(9) "Secretary" means the secretary for human resources;

(10) "Authorized staff physician" means a physician as defined in subsection (5) of this section who is a bona fide member of a hospital's medical staff as set forth in the bylaws of the institution, or the clinical director of an institution as defined in subsection (6) of this section which provides care for the mentally retarded;

(11) "Health officer" means any person charged with enforcing the health laws of the state or any political subdivision thereof;

(12) "Residence" means legal residence as determined by applicable principles governing conflicts of laws*;* [.]

(13) As used in this Act, unless the context otherwise requires:

"Interdisciplinary staff team" means persons who are qualified mental retardation professionals including the following:

(a) A psychologist with at least a master's degree from an accredited college or university;

(b) A physician licensed under State law to practice medicine or osteopathy;

(c) A physical therapist who is licensed or granted exemption from licensure pursuant to KRS Chapter 327 or an occupational therapist;

(d) A speech pathologist or audiologist who is licensed or granted exemption from licensure pursuant to KRS Chapter 334;

(e) A social worker with a bachelor's degree in social work from an accredited college or university or a bachelor's degree in a field other than social work and with at least three (3) years of experience in social work under the supervision of a qualified social worker;

(f) An educator with a bachelor's degree in education from an accredited college or university;

(g) A registered nurse; and

(h) A therapeutic recreation specialist with a bachelor's degree from an accredited college or university; and who in addition to the above possess specialized training or one (1) year of experience in treating or working with the mentally retarded.

Section 2. KRS 202.340 is amended to read as follows:

(1) Whenever the *interdisciplinary* staff *team* of a state institution for mentally retarded persons believes that the condition of a patient has sufficiently improved so that his release will not be injurious to him or detrimental to the public welfare, or that he is not a proper case for treatment at a state institution, it may, on filing a written certificate with the department, release the person, unless the person is held on an order arising out of a criminal offense.

(2) Before making the certificate, the *interdisciplinary* staff *team* shall satisfy themselves by sufficient proof that friends or relatives of the person are willing and financially able to receive and care for the person after his release if he is unable to care for himself. If the person to be released is indigent, he shall be returned to the county judge of the county from which he was committed.

(3) The interdisciplinary staff team may provide in written certificate that although the person shall be released he shall continue to be supervised by the department for human resources to assure that his mental, physical, social, educational and training needs are being adequately maintained. Upon recommendation by the interdisciplinary staff team that supervision of such person be continued the department shall so provide.

(4) [(3)] No person shall receive a pauper mentally retarded into his home without a permit from the department.

Section 3. KRS 203.505 is amended to read as follows:

In each restoration proceeding the court shall appoint a member of the bar to represent and protect the interest of the patient and said attorney shall be entitled to a fee of ten dollars ($10.00) for his services to be paid by the county in which the restoration proceeding is held, upon a certified copy of an order of allowance made by the court holding the proceeding. *An attorney employed by the department for human resources shall not be appointed as counsel for the patient in any restoration proceeding.*

Section 4. KRS 210.270 is amended to read as follows:

(1) The secretary for human resources or his designee is authorized to designate such private homes, private nursing homes and private institutions as he shall deem, after a thorough investigation of the personal and financial qualifications of the owners and tenants, the facilities and management, and the desirability of the location of such homes, to be suitable for the placement of patients, including the mentally ill and mentally handicapped and retarded of all ages, outside of the state mental hospitals. The secretary for human resources or his designee is authorized to prescribe, from time to time by regulation, standards for the selection and operation of private homes, private nursing homes and private institutions designated for the placement of patients. No home of an officer or employe of the department for human resources or of a member of his immediate family shall be designated for the placement of patients.

(2) Whenever the staff of a state mental hospital has determined that a patient who is not being held on an order rising out of a criminal offense has sufficiently improved and is not dangerous to himself or other persons, and that it would be in the patient's best interest to be placed outside of the hospital in a private home or private nursing home, the hospital shall so certify to the secretary for human resources or his designee who may then authorize the patient to be transferred to a designated private home or private nursing home for care and custody for such length of time as the secretary deems advisable.

(3) If any money has been deposited for the patient with the staff of any private home, private nursing home or private institution, the staff shall send a quarterly written report to the patient and his parent, guardian or committee concerning the status of his account.

(4) [(3)] The provisions of KRS 210.275, 203.080, 210.310, and 210.320 shall apply to patients transferred to designated private homes and private nursing homes as though such patients were residing in a state mental hospital.

Section 5. KRS 210.990 is amended to read as follows:

(1) Any officer who violates KRS 210.110 shall be fined not less than two hundred and fifty dollars ($250) nor more than one thousand dollars ($1,000).

(2) Any person who wilfully violates KRS 210.130 or 210.220 shall be fined not less than twenty-five dollars ($25.00) nor more than one hundred dollars ($100).

(3) Any person who willfully violates the provisions of KRS 210.270(3) shall be fined not more than five hundred dollars ($500).

(4) [(3)] Any person establishing, conducting, managing or operating any DATE Center without proper permit under KRS 210.610 to 210.680 shall be guilty of a misdemeanor and, upon conviction, shall be fined not more than twenty-five dollars ($25) for the first offense, and not more than one hundred dollars ($100) for each subsequent offense. Each day of continuing violation shall be considered a separate offense.

Section 6. KRS 387.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Person of unsound mind" means *a mentally ill person or mentally retarded person or* [an idiot, lunatic,] one who from confirmed bodily infirmity is unable to make known to others by speech, sign, or otherwise his thoughts or desires, and by reason thereof is incompetent to manage his estate, or one whose mind because of an infirmity or old age has become so [imbecile or] unsound as to render him incompetent to manage his estate.

(2) "Infant" or "minor" means any person who has not reached the age of eighteen.

Section 7. KRS 387.230 is amended to read as follows:

(1) The power and duty of the committee of a person of unsound mind shall *include but not be limited to:*

(a) the custody of the ward;

(b) the possession, care and management of the ward's property, both real and personal;

(c) the supervision of the ward's physical, mental and social well being;

(d) the provision for the necessary and proper maintenance of the ward out of the estate; and may include providing whatever is required by a physician in order to obtain needed medical care for such ward. This action, however, shall not make the committee or any person acting on behalf of the committee personally financially liable for expenses incurred by such medical care. [, in all respects, be the same as those of the guardian of a minor, except as to education.]

(2) The court may appoint a person other than the committee to take charge of the person of unsound mind when he is not confined in an *institution* [asylum], and may order his committee to make necessary provision for his support.

(3) Committees of persons of unsound mind shall receive the same compensation for their services, as such, as is provided in KRS 386.180 for trustees of estates.

Section 8. If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

The Committee Amendment to **HB 82** is as follows:

Amend printed copy of House Bill 82 on page 1, lines 9 through 13 by deleting the phrase by placing brackets beginning with the words "a defect" and ending with the words "of others" and inserting in lieu thereof the phrase "*significant sub-average general intellectual functioning which originates during the developmental period and is associated with impairment in adaptive behavior*"

and on page 1, line 15 by bracketing the word "defective" and inserting in lieu thereof the word "*retarded*"

and on page 3, lines 20 through 24 by bracketing the phrase beginning with the word "bachelor's" and ending with the word "worker" and inserting in lieu therof the words "*master of social work degree from an accredited college or university*"

and on page 3, lines 25 through 26 by bracketing the word "brachelor's" and inserting in lieu thereof the word "*master's*"

and on page 5, lines 9 through 11 by bracketing subsection *(4)* in its entirety

and on page 8, line 12 by deleting the words "mentally retarded" after the word "or" and inserting in lieu thereof the words "*legally declared incompetent*"

HB 80, AN ACT relating to the testing and immunization of children entering any public or private, elementary or secondary school.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 158 is created to read as follows:

(1) Except as otherwise provided in KRS 214.036, effective the beginning of the 1976-1977 school year for a one year period no child shall be eligible to enroll as a student in any public or private elementary or secondary school without first presenting a certificate from a duly licensed medical or osteopathic physician stating that the child has been tested for tuberculosis according to regulations of the department for human resources. Thereafter, such schools determined to have an enrollee infection rate of five-tenths of one percent or higher shall be required to comply with the provisions of this section.

(2) Such schools determined to have a proven enrollee infection rate below five-tenths of one percent are exempt from the provisions of this section except that the secretary of the department for human resources may require tuberculin skin tests to be administered according to the provisions of this section at five year intervals.

(3) The governing body of private and public schools shall enforce the provisions of this section.

Section 2. A new section of KRS Chapter 158 is created to read as follows:

Each public or private, elementary or secondary school shall report tuberculin skin test and immunization results to their local health departments in accordance with regulations promulgated by the department for human resources.

Section 3. KRS 214.034 is amended to read as follows:

Except as otherwise provided in KRS 214.036, all parents, guardians, and other persons having care, custody or control of any child shall have the child *tested for tuberculosis and* immunized against diphtheria, tetanus, poliomyelitis, pertussis, and measles in accordance with *testing and* immunization schedules established by regulations of the department for human resources *and shall have any child found to be infected with tuberculosis tested, examined and treated according to regulations of the department for human resources* . Such persons shall also have booster immunizations administered to the child in accordance with the regulations of the department for human resources.

Section 4. KRS 214.036 is amended to read as follows:

Nothing contained in KRS 158.035, 214.010, 214.020, 214.032 to 214.036 and 214.990 shall be construed to require the *testing for tuberculosis or the* immunization of any child at a time when, in the written opinion of his attending physician, such *testing or* immunization would be injurious to the child's health. Nor shall KRS 158.035, 214.010, 214.020, 214.032 to 214.036 and 214.990 be construed to require the immunization of any child whose parents are members of a nationally recognized and established church or religious denomination, the teachings of which are opposed to medical immunization against disease, and who object in writing to the immunization of such child on that ground. Provided, however, That in the event of an epidemic in a given area, the department for human resources may, by emergency regulation, require the immunization of all persons within the area of epidemic, against the disease responsible for such epidemic.

HB 191, AN ACT relating to hemophilia.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 211.015 is amended to read as follows:

As used in KRS 211.005 to 211.330, unless the context requires otherwise:

(1) "Department" means the department for human resources;

(2) "Secretary" means the secretary for human resources;[.]

(3) As used in this Act, unless the context otherwise requires:

(a) "Bureau" means bureau for health services;

(b) "Commissioner" means the commissioner of the bureau for health services;

(c) "Committee" means the hemophilia advisory committee;

(d) "Hemophilia" means a bleeding disorder resulting from a genetically determined deficiency factor in the blood, or hereditarily resulting in an abnormal or deficient plasma procoagulant.

Section 2. A new section of KRS Chapter 211 is created to read as follows:

(1) There is hereby created within the department for human resources a hemophilia advisory committee for the purpose of acting in an advisory capacity to the bureau for health services regarding the hemophilia treatment program. The committee shall consist of nine (9) members. The secretary for human resources shall be an ex-officio member. The other eight (8) members of the committee shall be appointed by the Governor and shall hold office for a term of four (4) years and until their successors are appointed and qualify, except that of those members initially appointed the terms shall be as follows: two (2) members shall be appointed for one (1) year, two (2) for two (2) years, two (2) for three (3) years, and two (2) for four (4) years. Appointments shall be made one (1) from a list of three (3) nominees submitted by the following organizations: the Kentuckiana Chapter of the National Hemophilia Foundation, the Kentucky Medical Association, the Kentucky Pharmaceutical Association, and the Kentucky Hospital Association. The other four (4) appointive members shall be citizens residing within the Commonwealth who are hemophiliacs, parents of hemophiliacs, or health care providers interested in hemophilia.

(2) Each appointive member of the committee shall serve without compensation but shall be entitled to reimbursement for his actual and necessary expenses in carrying out his duties.

(3) Vacancies shall be filled for the unexpired term in the same manner as original appointments, maintaining representations as set out in subsection (1) of this section.

(4) The committee shall elect a chairman, vice-chairman, and secretary from among its members at its first regular meeting in each fiscal year and shall adopt rules governing its proceedings. The committee shall hold a meeting at least once every three (3) months and such other special or regular meetings as may be desired.

Section 3. A new section of KRS Chapter 211 is created to read as follows:

(1) The commissioner of the bureau for health services shall establish a hemophilia treatment program within the bureau for the detection, diagnosis and treatment of persons suffering from hemophilia. The hemophilia treatment program shall assist those persons who require continuing treatment with blood, blood derivatives, or a manufactured pharmaceutical product to avoid crippling, hospitalization, or other effects associated with hemophilia, but who are unable to pay for the entire cost of such services on a continuing basis.

(2) The commissioner shall also initiate activities with the advice of the hemophilia advisory committee to:

(a) Develop standards for determining eligibility for the care and treatment of persons suffering from hemophilia;

(b) Assist in the development and expansion of programs for the diagnosis and treatment of hemophilia and related diseases including but not limited to home care and medical and dental procedures designed to provide maximum control over bleeding;

(c) Provide financial assistance either directly or indirectly to persons suffering from hemophilia for the purpose of obtaining blood, blood derivatives and concentrates, and other efficacious agents for use in hospital, medical and dental facilities as well as in the home;

(d) Provide for community educational programs for the detection of hemophilia and for the counseling of individuals and families suffering from hemophilia; and

(e) Conduct educational programs for physicians, dentists, hospitals, health departments, and the public concerning the methods of detection, diagnosis and treatment of persons who have hemophilia.

Section 4. To carry out the purposes of this Act, there is appropriated to the department for human resources the sum of $150,000 for the first year of the biennium and $150,000 for the second year of the biennium from the general fund of the Commonwealth.

The Committee on Highways and Traffic Safety reported **HB 84,** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 84, AN ACT relating to the use of streets and highways.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 189.010 is amended to read as follows:

As used in this Chapter unless the context requires otherwise:

(1) "Bureau" means the Bureau of Highways.

(2) "Crosswalk" means: (a) that part of a roadway at an intersection within the connections of the lateral lines of the sidewalks on opposite sides of the highway measured from the curbs or in the absence of curbs, from the edges of the traversable roadway; or

(b) any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface.

(3) [(2)] "Highway" means any public road, street, avenue, alley or boulevard, bridge, viaduct or trestle with the approaches to them and includes off-street parking facilities offered for public use, whether publicly or privately owned, except for-hire parking facilities listed in KRS 189.700.

(4) "Intersection" means: (a) the area embraced within the prolongation or connection of the lateral curb lines, or, if none, then the lateral boundary lines of the roadways of two highways which join one another at, or approximately at, right angles, or the area within which vehicles traveling upon different highways joining at any other angle may come in conflict; or

(b) where a highway includes two roadways thirty (30) feet or more apart, then every crossing of each roadway of such divided highway by an intersecting highway shall be regarded as a separate intersection. In the event such intersecting highway also includes two (2) roadways thirty (30) feet or more apart, then every crossing of two (2) roadways of such highways shall be regarded as a separate intersection.

(c) the junction of an alley with a street or highway shall not constitute an intersection.

(5) [(3)] "Motor Truck" means any motor-propelled vehicle designed for carrying freight or merchandise. It shall not include self-propelled vehicles designed primarily for passenger transportation, but equipped with frames, racks or bodies having a load capacity of exceeding one thousand (1000) pounds.

(6) [(4)] "Operator" means the person in actual physical control of a vehicle.

(7) "Pedestrian" means any person afoot.

(8) "Right of way" means the right of one (1) vehicle or pedestrian to proceed in a lawful manner in preference to another vehicle or pedestrian approaching under such circumstances of direction, speed and proximity as to give rise to danger of collision unless one grants precedence to the other.

(9) "Roadway" means that portion of a highway improved, designed or ordinarily used for vehicular travel, exclusive of the berm or shoulder. In the event a highway includes two (2) or more separate roadways the term "roadway" as used herein shall refer to any roadway separately but not to all such roadways collectively.

(10) "Safety zone" means the area or space officially set apart within a roadway for the exclusive use of pedestrians and which is protected or is so marked or indicated by adequate signs as to be plainly visible at

all times while set apart as a safety zone.

(11) [(5)] "Semitrailer" means a vehicle designed to be attached to, and having its front end supported by, a motor truck or truck tractor, intended for the carrying of freight or merchandise and having a load capacity of over one thousand (1000) pounds.

(12) "Through highway" means every highway or portion thereof on which vehicular traffic is given preferential right of way, and at the entrances to which vehicular traffic from intersecting highways is required by law to yield the right of way to vehicles on such through highway in obedience to a stop sign, yield sign, or other official traffic-control device, when such signs or devices are erected as provided in this Chapter.

(13) [(6)] "Truck tractor" means any motor-propelled vehicle designed to draw and to support the front end of a semitrailer. The semitrailer and the truck driver shall be considered to be one (1) unit.

(14) [(7)] "Sharp curve" means a curve of not less than thirty (30) degrees.

(15) [(8)] "State police" includes any agency for the enforcement of the highway laws established pursuant to law.

(16) [(9)] "Steep grade" means a grade exceeding seven percent (7%).

(17) [(10)] "Trailer" means any vehicle designed to be drawn by motor truck or truck tractor, but supported wholly upon its own wheels, intended for the carriage of freight or merchandise, and having a load capacity of over one thousand (1000) pounds.

(18) [(11)] "Unobstructed highway" means a straight, level, first-class road upon which no other vehicle is passing or attempting to pass, and upon which no other vehicle or pedestrian is approaching in the opposite direction, closer than three hundred (300) yards.

(19) [(12)] "Vehicle" includes all agencies for the transportation of persons or property over or upon the public highways of this Commonwealth and all vehicles passing over or upon said highways excepting road rollers, road graders, farm tractors, vehicles on which power shovels are mounted, such other construction equipment customarily used only on the site of construction and which is not practical for the transportation of persons or property upon the highways, such vehicles as travel exclusively upon rails, and such vehicles as are propelled by electric power obtained from overhead wires while being operated within any municipality or where said vehicles do not travel more than five (5) miles beyond the city limits of any such municipality. "Motor vehicle" includes all vehicles as defined above which are propelled otherwise than by muscular power.

Section 2. KRS 189.337 is amended to read as follows:

(1) As used in this *Chapter* [section] "official traffic control devices" shall mean all signs, signals, markings, and devices placed or erected by authority of a public body or official having jurisdiction, for the purpose of regulating, warning, or dividing traffic.

(2) The bureau of highways shall promulgate and adopt a manual of standards and specifications for a uniform system of official traffic control devices for use upon all roads and streets. The manual and its future revisions and supplements shall be applicable to all roads and streets under the control of the bureau of highways or any county or incorporated city.

(3) All traffic control devices installed on any road or street after the adoption of the manual shall conform to the provisions thereof. Satisfactory operating traffic devices in use on the date of the adoption of the manual may continue to be used, however, if such devices are replaced or revised, they must be replaced or revised in conformance with the provisions of the manual.

Section 3. A new section of KRS Chapter 189 is created to read as follows:

(1) When two (2) vehicles approach or enter an intersection from different roadways at approximately the same time, the operator of the vehicle on the left shall yield the right of way to the vehicle on the right.

(2) The right of way rule declared in subsection (1) is modified at through highways and otherwise as stated in this Chapter.

Section 4. A new section of KRS Chapter 189 is created to read as follows:

The operator of a vehicle intending to turn to the left within an intersection or into an alley, private road or driveway shall yield the right of way to any vehicle approaching from the opposite direction which is within the intersection or so close thereto as to constitute an immediate hazard.

Section 5. A new section of KRS Chapter 189 is created to read as follows:

(1) Preferential right of way may be indicated by stop signs or yield signs. The state highway commissioner with reference to state highways and local authorities with reference to other highways under their jurisdictions may designate any intersection as a stop intersection or as a yield intersection and erect stop signs or yield signs at one or more entrances to such intersection.

(2) Except when directed to proceed by a police officer, every operator of a vehicle approaching a stop sign shall stop at a clearly marked stop line, but if none, before entering the crosswalk on the near side of the intersection, or, if none, then at the point nearest the intersecting roadway where the operator has a view of

approaching traffic on the intersecting roadway before entering it. After having stopped the operator shall yield the right of way to any vehicle in the intersection or approaching on another roadway so closely as to constitute an immediate hazard during the time when such operator is moving across or within the intersection or junction of roadways.

(3) The operator of a vehicle approaching a yield sign shall in obedience to such sign slow down to a speed reasonable for the existing conditions and, if required for safety to stop, shall stop at a clearly marked stop line, but if none, before entering the crosswalk on the near side of the intersection, or, if none, then at the point nearest the intersecting roadway where the operator has a view of approaching traffic on the intersecting roadway before entering it. After slowing and stopping, the operator shall yield the right of way to any vehicle in the intersection or approaching on another roadway so closely as to constitute an immediate hazard during the time such operator is moving across or within the intersection or junction of roadways. Provided, however, that if such an operator is involved in a collision with a vehicle in the intersection or junction of roadways after driving past a yield sign without stopping, such collision shall be deemed prima facie evidence of his failure to yield right of way.

Section 6. A new section of KRS Chapter 189 is created to read as follows:

The operator of a vehicle about to enter or cross a roadway from any place other than another roadway shall yield the right of way to all vehicles approaching on the roadway to be entered or crossed.

Section 7. A new section of KRS Chapter 189 is created to read as follows:

(1) The operator of a vehicle shall yield the right of way to any public safety vehicle or pedestrian actually engaged in work upon a highway or within any highway construction or maintenance area indicated by official traffic control devices.

(2) The operator of a vehicle shall yield the right of way to any public safety vehicle obviously and actually engaged in work upon a highway whenever such vehicle displays flashing lights meeting the requirements of KRS 189.920(3).

Section 8. A new section of KRS Chapter 189 is created to read as follows:

(1) A pedestrian shall obey the instruction of any official traffic control device specifically applicable to him, unless otherwise directed by a police officer.

(2) Pedestrians shall be subject to traffic and pedestrian control signals as provided in KRS 189.231 and KRS 189.338.

(3) At all other places, pedestrians shall be accorded the privileges and shall be subject to the restrictions stated in this Chapter.

Section 9& A new section of KRS Chapter 189 is created to read as follows:

(1) When traffic control signals are not in place or not in operation the operator of a vehicle shall yield the right of way, slowing down or stopping if need be to so yield, to a pedestrain crossing the roadway upon which the vehicle is traveling, or when the pedestrian is approaching so closely from the opposite half of the roadway as to be in danger.

(2) Subsection (1) shall not apply under the conditions stated in Section 10 of this Chapter.

(3) Whenever any vehicle is stopped at a marked crosswalk or at any unmarked crosswalk at an intersection to permit a pedestrian to cross the roadway, the operator of any other vehicle approaching from the rear shall not overtake and pass such stopped vehicle.

(4) Notwithstanding other provisions of this Chapter or the provisions of any local ordinance, every operator of a vehicle shall exercise due care to avoid colliding with any pedestrian and shall give warning by sounding the horn when necessary and shall exercise proper precaution upon observing any child or any obviously confused, incapacitated, or intoxicated person.

(5) No vehicle shall at any time be driven through or within a safety zone.

(6) The operator of a vehicle shall yield the right of way to any pedestrian on a sidewalk.

(7) The operator of a vehicle shall yield the right of way to any blind pedestrian carrying a clearly visible white cane or accompanied by a guide dog.

Section 10. A new section of KRS Chapter 189 is created to read as follows:

(1) Every pedestrian crossing a roadway at any point other than within a marked crosswalk or within an unmarked crosswalk at an intersection shall yield the right of way to all vehicles upon the roadway.

(2) Any pedestrian crossing a roadway at a point where a pedestrian tunnel or overhead pedestrian crossing has been provided shall yield the right of way to all vehicles upon the roadway.

(3) Between adjacent intersections within the city limits of every city at which traffic control signals are in operation pedestrians shall not cross at any place except in a marked crosswalk.

(4) No pedestrian shall suddenly leave a curb or other place of safety and walk or run into the path of a vehicle which is so close as to constitute an immediate hazard.

(5) No pedestrian shall cross a roadway intersection diagonally unless authorized by official traffic control devices; and, when authorized to cross diagonally, pedestrians shall cross only in accordance with the official traffic control devices pertaining to such crossing movements.

(6) Pedestrians shall move, whenever practicable, upon the right half of the crosswalks.

(7) Where a sidewalk is provided and its use is practicable, it shall be unlawful for any pedestrian to walk along and upon an adjacent roadway.

(8) Where a sidewalk is not available, any pedestrian walking along and upon a highway shall walk only on a shoulder, as far as practicable from the edge of the roadway.

(9) Where neither a sidewalk nor a shoulder is available, any pedestrian walking along and upon a highway shall walk as near as practicable to an outside edge of the roadway, and, if on a two-way roadway, shall walk only on the left side of the roadway.

(10) Except as otherwise provided in this Chapter, any pedestrian upon a roadway shall yield the right of way to all vehicles upon the roadway.

(11) A pedestrian who is under the influence of alcohol or any kind of drug to a degree which renders himself a hazard shall not walk or be upon a highway except on a sidewalk.

(12) No pedestrian shall enter or remain upon any bridge or approach thereto beyond the bridge signal, gate, or barrier, after a bridge operation signal indication has been given.

(13) No pedestrian shall pass through, around, over, or under any crossing gate or barrier at a railroad grade crossing or bridge while such gate or barrier is closed or is being opened or closed.

(14) No pedestrian shall stand in a roadway for the purpose of soliciting a ride.

(15) No pedestrian shall stand on a highway for the purpose of soliciting employment or business from the occupant of any vehicle.

(16) No pedestrian shall stand on a highway for the purpose of soliciting contributions unless such soliciting is designated by the presence of any emergency or public safety vehicle as defined in KRS 189.910 making use of the flashing, rotating or oscillating red, blue or yellow lights on such vehicle.

(17) No pedestrian shall stand on or in proximity to a street or highway for the purpose of soliciting the watching or guarding of any vehicle while parked or about to be parked on a street or highway.

Section 11. A new section of KRS Chapter 189 is created to read as follows:

(1) Upon the immediate approach of an emergency vehicle equipped with, and operating, one or more flashing, rotating, or oscillating red or blue lights, visible under normal conditions from a distance of 500 feet to the front of such vehicle; and the operator is given audible signal by siren, exhaust whistle, or bell, every pedestrian shall yield the right of way to the emergency vehicle.

(2) This section shall not relieve the operator of an emergency vehicle from the duty to drive with due regard for the safety of all persons using the highway nor from the duty to exercise due care to avoid colliding with any pedestrian.

Section 12. KRS 189.338 is amended to read as follows:

Whenever traffic is controlled by traffic control signals exhibiting different colored lights, or colored lighted arrows, successively one at a time or in combination, only the colors green, red and yellow shall be used, except for special pedestrian signals carrying a word legend, and said lights shall indicate and apply to drivers of vehicles and pedestrians as follows:

(1) Green indication.

(a) Vehicular traffic facing a circular green signal may proceed straight through or turn right or left unless a sign at such place prohibits either such turn. But vehicular traffic, including vehicles turning right or left, shall yield the right of way to other vehicles and to pedestrians lawfully within the intersection or an adjacent crosswalk at the time such signal is exhibited.

(b) Vehicular traffic facing a green arrow signal, shown alone or in combination with another indication, may cautiously enter the intersection only to make the movement indicated by such arrow, or such other movement as is permitted by other indications shown at the same time. Such vehicular traffic shall yield the right of way to pedestrians lawfully within an adjacent crosswalk and to other traffic lawfully using the intersection.

(c) Unless otherwise directed by a pedestrian[-]control signal, pedestrians facing any green signal, except when the sole green signal is a turn arrow, may proceed across the roadway within any marked or unmarked crosswalk.

(2) Steady yellow indication.

(a) Vehicular traffic facing a steady yellow signal is thereby warned that the related green movement is being terminated or that a red indication will be exhibited immediately thereafter when vehicular traffic shall not enter the intersection.

(b) Pedestrians facing a steady yellow signal, unless otherwise directed by a pedestrian [-]control signal, are thereby advised that there is insufficient time to cross the roadway before a red indication is shown and no pedestrian shall then start to cross the roadway.

(3) Steady red indication.

(a) Vehicular traffic facing a circular red signal alone shall stop at a clearly marked stop line, but if none, then before entering the crosswalk on the near side of the intersection, or if none, then before entering the intersection and shall remain standing until a green indication is shown, except as follows: the driver of a vehicle which is stopped as close as practicable at the entrance to the crosswalk on the near side of the intersection or, if none, then at the entrance to the intersection in obedience to a red or stop signal, and with the intention of making a right turn, may make such right turn, after stopping, unless an official sign has been erected prohibiting such movement, but shall yield the right of way to pedestrians and other traffic lawfully proceeding through the intersection. Cities and counties may, by ordinance, and the bureau of highways may, by regulation, prohibit any such right turn against a steady red signal at any intersection, which prohibition shall be effective when an official sign prohibiting such movement is erected at the intersection.

(b) Unless otherwise directed by a pedestrian [-]control signal, pedestrians facing a steady red signal alone shall not enter the roadway.

(4) In the event an official traffic control signal is erected and maintained at a place other than an intersection, the provisions of this section shall be applicable except as to those provisions which by their nature can have no application. Any stop required shall be made at a sign or marking on the pavement indicating where the stop shall be made, but in the absence of any such sign or marking the stop shall be made at the signal.

(5) Whenever an illuminated flashing red or yellow light is used in a traffic signal or with a traffic sign it shall require obedience by vehicular traffic as follows:

(a) Flashing red (stop signal)—When a red lens is illuminated with rapid intermittent flashes, operators of vehicles shall stop at a clearly marked stop line, but if none, before entering the crosswalk on the near side of the intersection, or if none, then at the point nearest the intersecting roadway where the operator has a view of approaching traffic on the intersecting roadway before entering it, and the right to proceed shall be subject to the rules applicable after making a stop at a stop sign.

(b) Flashing yellow (caution signal)—When a yellow lens is illuminated with rapid intermittent flashes, operators of vehicles may proceed through the intersection or past such signal only with caution.

Section 13. KRS 189.340 is amended to read as follows:

(1) Vehicles overtaking other vehicles proceeding in the same direction shall pass to the left of them and shall not again drive to the right until reasonably clear of those vehicles. The person operating or in charge of the overtaking vehicle shall sound his horn or other sound device before passing. Vehicles overtaking street cars may pass either to the right or left when so directed by a police officer, when on a one-way street or where the location of the tracks prevents compliance with this section, with regard for other traffic.

(2) The operator of a vehicle may overtake and pass upon the right of another vehicle only under the following conditions:

(a) When the vehicle overtaken is making or about to make a left turn;

(b) Upon a roadway with unobstructed pavement of sufficient width for two or more lines of vehicles moving lawfully in the direction being traveled by the overtaking vehicle.

(3) The operator of a vehicle may overtake and pass another vehicle upon the right only under conditions permitting such movements in safety. Such movement shall not be made by driving off the roadway unless passing vehicle comes to a complete stop and such movement may be made safely.

[(2) The operator of a vehicle may overtake and pass upon the right of another vehicle which is making or is about to make a left turn. The operator of a vehicle may overtake, and, allowing sufficient clearance, pass another vehicle proceeding in the same direction upon the left or upon the right on a roadway with unobstructed pavement or sufficient width for four (4) or more lines of traffic when the movement can be made in safety. No person shall drive off the pavement or upon the shoulder of the roadway in overtaking or passing on the right.]

(4) [(3)] No vehicle shall be driven to the left side of the center of the roadway in overtaking and passing another vehicle proceeding in the same direction unless the left side is clearly visible and free of oncoming traffic for a sufficient distance ahead to permit overtaking and passing to be completely made without interfering with the safe operation of any vehicle approaching from the opposite direction or any vehicle overtaken. In every event the overtaking vehicle must return to the right-hand side of the roadway before coming within one hundred feet (100') of any vehicle approaching from the opposite direction.

(5) [(4)] The commissioner of highways is hereby authorized to determine those portions of any highway where overtaking and passing or driving to the left of the roadway would be especially hazardous and may by appropriate signs or markings on the roadway indicate the beginning and end of such zones, and when such signs or markings are in place and clearly visible to an ordinary observant person, every driver of a vehicle

shall obey the directions thereof.

(6) [(5)] Whenever any roadway has been divided into three (3) clearly marked lanes for travel the following additional rules shall apply:

(a) A vehicle shall be driven as nearly as may be practical entirely within a single lane and shall not be moved from that lane until the driver has first ascertained that the movement can be made with safety;

(b) A vehicle shall not be driven in the center lane except when overtaking and passing another vehicle where the roadway is clearly visible and the center lane is clear of traffic within a safe distance, or in preparation for a left turn or where a center lane is at the time allocated exclusively to traffic moving in the direction in which the vehicle is proceeding and is signposted to give notice of the allocation;

(c) Official signs may be erected directing a slow-moving traffic to use a designated lane or allocating specified lanes to traffic moving in the same direction and operators of vehicles shall obey the directors of such signs.

(7) [(6)](a) The operator of a motor vehicle shall not follow another vehicle more closely than is reasonable and prudent, having regard for the speed of the vehicle and the traffic upon and condition of the highway.

(b) The operator of any motor truck, semitrailer truck, bus or heavy construction equipment unit when traveling upon a highway outside of a business or residential district shall not follow within 250 feet of another such vehicle or equipment unit. This subsection shall not prevent overtaking and passing, nor shall it apply to any lane specially designated for use of motor trucks or semitrailer trucks, buses or heavy construction equipment units.

Section 14. A new section of KRS Chapter 189 is created to read as follows:

The operator of a vehicle intending to turn shall do so as follows:

(1) Right turns—both the approach for a right turn and a right turn shall be made as close as practicable to the right-hand curb or edge of the roadway.

(2) Left turns—the operator of a vehicle intending to turn left shall approach the turn in the extreme left-hand lane lawfully available to traffic moving in the direction of travel of such vehicle. Whenever practicable the left turn shall be made to the left of the center of the intersection and so as to leave the intersection or other location in the extreme left-hand lane lawfully available to traffic moving in the same direction as such vehicle on the roadway being entered.

(3) The Department of Transportation and local authorities in their respective jurisdictions may cause official traffic control devices to be placed and thereby require and direct that a different course from that specified in this section be traveled by turning vehicles and when such devices are so placed no operator shall turn a vehicle other than as directed and required by such devices.

(4) The operator of any vehicle shall not turn such vehicle so as to proceed in the opposite direction unless such movement can be made in safety without interfering with other traffic.

Section 15. A new section of KRS Chapter 189 is created to read as follows:

No person shall start a vehicle which is stopped, standing, or parked unless and until such movement can be made with reasonable safety.

Section 16. KRS 189.380 is amended to read as follows:

(1) No person shall turn a vehicle or move right or left upon a roadway unless and until such movement can be made with reasonable safety nor without giving an appropriate signal in the manner hereinafter provided.

[(1) No person shall turn a vehicle from a direct course upon a highway unless and until such movement can be made with reasonable safety, and only after a clearly audible signal has been given by sounding the horn if any pedestrian shall be affected by the movement. No person shall so turn any vehicle without giving an appropriate signal in the manner hereinafter provided in the event any other vehicle may be affected by such movement.]

(2) A signal of the intention to turn right or left shall be given continuously for not less than the last one hundred (100) feet traveled by the vehicle before turning.

(3) No person shall stop or suddenly decrease the speed of a vehicle without first giving an appropriate signal in the manner provided herein to the operator of any vehicle immediately in the rear when there is opportunity to give such signal.

(4) All signals required herein shall be given either by means of the hand and arm or by a signal lamp or lamps or a mechanical signal device, except that the operator of a motor vehicle used for the transportation of persons for hire with taxicabs excluded, the operator of a school or church bus, and the operator of any vehicle so constructed or loaded that a hand and arm signal would not be visible both to the front and rear of such vehicle shall indicate an intention to turn by use of a signal lamp or lamps or mechanical signal device and must indicate an intention to stop or suddenly decrease speed by illuminating at least one (1) red or yellow

light with the word "Stop" on it on the rear of the vehicle.

(5) All signals herein required given by hand and arm shall be given from the left side of the vehicle in the following manner, and such signals shall indicate as follows:

(a) Left turn—hand and arm extended horizontally;

(b) Right turn—hand and arm extended upward;

(c) Stop or decrease speed—hand and arm extended downward.

Section 17. A new section of KRS Chapter 189 is created to read as follows:

(1) No vehicle shall be driven on the left side of the roadway under the following conditions:

(a) When approaching or upon the crest of a grade or a curve in the highway where the operator's view is obstructed within such distance as to create a hazard in the event another vehicle might approach from the opposite direction;

(b) When approaching within one hundred (100) feet of or traversing any intersection or railroad grade crossing;

(c) When the view is obstructed upon approaching within one hundred (100) feet of any bridge, viaduct or tunnel.

(2) The foregoing limitations shall not apply upon a one way roadway, nor when an obstruction exists making it necessary to drive to the left of the center of the highway; provided, any person so doing shall yield the right of way to all vehicles traveling in the proper direction upon the unobstructed portion of the highway within such distance as to constitute an immediate hazard, nor to the operator of a vehicle turning left into or from an alley, private road or driveway.

Section 18. A new section of KRS Chapter 189 is created to read as follows:

Any person who violates any of the provisions of Sections 3, 4, 5, 6, 7, 8, 9, 10, 11, 13, 14, 15 16, or 17 of this Act shall be fined not less than $10 nor more than $100 for each offense.

Section 19. KRS 189.990 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 189.020 to 189.040, subsections (1), (2) and (5) of KRS 189.050, KRS 189.060 to 189.080, subsections (1) to (3) of KRS 189.090, KRS 189.100, 189.110, 189.130 to 189.160, subsections (2) to (4) of KRS 189.190, KRS 189.200, 189.290, 189.300 to 189.360, *except KRS 189.337 and 189.340* [KRS 189.380], KRS 189.390, except paragraph (c) of subsection (4), KRS 189.400 to 189.430, 189.450 to 189.480, subsection (1) of KRS 189.520, KRS 189.540, subsection (1) of KRS 189.560, KRS *189.580* [189.570] to 189.630, except subsection (1) of KRS 189.580, shall be fined not less than $10.00 nor more than $100 for each offense. Any person who violates subsection (1) of KRS 189.580 shall be fined not less than $10.00 nor more than $2,000 or imprisoned in the county jail for not more than one (1) year, or both. Any person who violates paragraph (c) of subsection (4) of KRS 189.390 shall be fined not less than $1.00 nor more than $20.00. Neither court costs nor fees shall be taxed against any person convicted of violating paragraph (c) of subsection (4) of KRS 189.390.

(2)(a) Any person who violates the weight provisions of KRS 189.221, 189.222, 189.226, 189.230, 189.270 and 189.271 shall, upon conviction, be fined in an amount equal to two cents (2¢) per pound for each pound of excess load when the excess is 2,000 pounds or less, three cents (3¢) per pound when the excess exceeds 2,000 pounds and is 3,000 pounds or less, five cents (5¢) per pound when the excess exceeds 3,000 pounds and is 4,000 pounds or less, seven cents (7¢) per pound when the excess exceeds 4,000 pounds and is 5,000 pounds or less, and nine cents (9¢) per pound when the excess exceeds 5,000 pounds but in no case shall the fine be less than $50.00 nor more than $500.

(b) Any person who violates any provision of subsections (3) and (4) of KRS 189.050, subsection (4) of KRS 189.090, KRS 189.221 to 189.230, 189.270, 189.280, or 189.490, for which another penalty is not specifically provided, shall be guilty of misdemeanor and upon conviction thereof, shall be fined in any sum not exceeding $500.

(c) Nothing in this subsection or in KRS 189.221 to 189.228 shall be deemed to prejudice or affect the authority of the bureau of vehicle regulation to suspend or revoke certificates of common carriers, permits of contract carriers, or driver's or chauffeurs' licenses, for any violation of KRS 189.221 to 189.228 or any other act applicable to motor vehicles, as provided by law.

(3) Any person who violates KRS 189.170 shall be fined not less than $5.00 nor more than $50.00 for each day he operates a truck in violation of KRS 189.170.

(4)(a) Any person who violates subsection (1) of KRS 189.190 shall be fined not more than $5.00.

(b) Any person who violates subsection (5) of KRS 189.190 shall be fined not less than $25.00 nor more than $200.

(5)(a) Any person who violates subsection (1) of KRS 189.210 shall be fined not less than $15,00 nor more than $100.

(b) Any peace officer who fails, when properly informed, to enforce KRS 189.210 shall be fined not less than $15.00 nor more than $100.

(c) All fines collected under this subsection, after payment of commissions to officers entitled thereto, shall go to the county road fund if the offense is committed in the county, or to the city street fund if committed in the city.

(6) Any person who violates subsection (1) of KRS 189.370 shall be fined not more than $500 or imprisoned for not more than six (6) months, or both.

(7) Any person who violates KRS 189.500 shall be fined not more than $5.00 in excess of the cost of the repair of the road.

(8) Any person who violates KRS 189.510 shall be fined not less than $10.00 nor more than $50.00.

(9)(a) Any person who violates subsection (2) of KRS 189.520 shall be fined, for the first offense, not less than $100 nor more than $500; for the second offense, a fine of not less than $100 nor more than $500 and imprisoned for not less than three (3) days nor more than six (6) months; for each subsequent offense he shall be fined not less than $100 nor more than $500 and imprisoned for not less than thirty (30) days nor more than twelve (12) months.

(b) Any peace officer who violates subsection (3) of KRS 189.520 shall be fined not less than $25.00 nor more than $100.

(10) Any person who violates KRS 189.530 shall be fined not less than $25.00 nor more than $100 or imprisoned not less than thirty (30) days nor more than twelve (12) months, or both.

(11) Any person who violates any of the provisions of KRS 189.550 shall be fined not less than $10.00 nor more than $100 for each offense.

(12) Any person who violates subsection (2) of KRS 189.560 shall be fined not less than $20.00 nor more than $100 for each offense.

(13) The fines imposed by paragraph (a) of subsection (4) and subsections (7) and (8) of this section shall, in the case of a public highway, be paid into the county road fund, and in case of a privately owned road or bridge be paid to the owner. These fines shall not bar an action for damages for breach of contract.

(14) Any person who violates any of the provisions of KRS 189.120 shall be fined not less than $10.00 nor more than $100 for each offense.

(15) Any person who violates *subsection (7) of section 9 of this Act* [any provision of KRS 189.575] shall, upon conviction thereof, be fined not exceeding $25.00.

(16) Any person who violates subsection (2) of KRS 189.231 shall be fined not less than $10.00 nor more than $100 for each offense.

(17)(a) Any person who violates any of the provisions of KRS 189.565 shall be fined not less than $15.00 nor more than $200, or imprisoned for not more than thirty (30) days or both.

(b) In addition to the penalties prescribed in paragraph (a) of this subsection, in case of violation by any person in whose name such vehicle used in the transportation of inflammable liquids or explosives is licensed, such person shall be fined not less than $100 nor more than $500. Each violation shall constitute a separate offense.

(18) Any person who abandons a vehicle upon the right of way of a state highway for seven (7) consecutive days shall be fined not less than twenty-five dollars ($25.00) nor more than one hundred dollars ($100) or imprisoned for not less than ten (10) days nor more than thirty (30) days.

(19) Every person convicted for violation of KRS 189.393 shall be punished upon a first conviction by imprisonment for a period of not less than five (5) days nor more than ninety (90) days, or by fine of not less than $25.00 nor more than $500, or by both such fine and imprisonment, and on a second or subsequent conviction shall be punished by imprisonment for not less than ten (10) days nor more than six (6) months, or by a fine of not less than $50.00 nor more than $1,000, or by both such fine and imprisonment.

(20) Any law enforcement agency which fails or refuses to forward the reports required by KRS 189.635 shall be subject to the penalties prescribed in KRS 17.157(2).

(21) A person who elects to operate a bicycle in accord with any regulations adopted pursuant to KRS 189.287 and who wilfully violates a provision of such a regulation shall be fined not more than one hundred dollars ($100). A person who operates a bicycle without complying with any regulations adopted pursuant to KRS 189.287 or vehicle safety statutes shall be prosecuted for violation of the latter.

(22) Any person who violates this section shall be fined not more than five hundred dollars ($500) or imprisoned for not more than six (6) months, or both.

Section 20. KRS Sections 189.330, 189.440, 189.570 and 189.575 are repealed.

The Committee Amendment to **HB 84** is as follows:

Amend printed copy of House Bill 84 on page 13, line 6, by inserting after the word "designated" the words "*for charity.*"

and on page 13, by deleting lines 6 through 9, beginning with "by the presence of . . ." and inserting in lieu thereof the following: "*The solicitor or group of solicitors shall make use of at least one (1) flashing, rotating or oscillating red, blue or yellow light at each corner of the intersection and at every point along the highway where such solicitation occurs.*"

The Committee on Judiciary-Statutes reported **HB 254,** with Committee Amendment and Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 254, AN ACT relating to bail.

WHEREAS, the people of the Commonwealth of Kentucky by ratification of the Judicial Article mandated a reform in the administration of justice including the pretrial release of citizens charged with bailable offenses; and

WHEREAS, the present system providing for the pretrial release of persons charged with criminal offenses, including traffic offenses and other misdemeanors, was designed to fulfill the constitutional mandates that bail shall be allowed in all cases, other than capital offenses, in an amount to insure the presence of the defendants as ordered by the court; and

WHEREAS, bail bondsmen have, in large part, pre-empted those constitutional mandates and have reaped huge profits from the bail bonding business to the detriment of the rights of many citizens and have been a major cause of corruption in the administration of justice; and

WHEREAS, the present system has become so dominated by the bail bondsmen that pretrial release of defendants on their own recognizances in cases involving minor offenses has been discouraged without regard to the likelihood that most defendants will appear as ordered by the court if released on their own recognizances, all for the purpose of creating profits for the bail bondsmen; and

WHEREAS, in many instances the present system financially burdens lower income persons charged with minor offenses by virtually requiring them to pay for the services of a bail bondsman without regard to the likelihood that they will appear as ordered by the court if released on their own recognizances; and

WHEREAS, the present system has otherwise fostered wide-spread abuse of the laws and of the rights of the citizens of this Commonwealth through the corruptive influences of the bail bondsman in violation of the spirit of the Kentucky Constitution guaranteeing the equal administration of justice; and

WHEREAS, it is the intent of the General Assembly of the Commonwealth of Kentucky to provide for a uniform workable system for affording persons charged with bailable offenses their constitutional rights to pretrial release that will insure appearances as ordered by the courts without imposing undue hardships upon those persons;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 431 is created to read as follows:

(1) It shall be unlawful for any person to engage in the business of bail bondsman as defined in KRS 304.34-010(1), or to otherwise for compensation or other consideration:

(a) furnish bail or funds or property to serve as bail; or

(b) make bonds or enter into undertakings as surety;

for the appearance of persons charged with any criminal offense or violation of law or ordinance punishable by fine, imprisonment or death, before any of the courts of this state, including city courts, or to secure the payment of fines imposed and of costs assessed by such courts upon a final disposition.

(2) Nothing contained herein shall serve to release any bail bondsman heretofore licensed by this state from the obligation of undischarged bail bond liability existing on the effective date of this Act.

(3) Within thirty (30) days from the effective date of this Act, every bail bondsman heretofore licensed under Chapter 304, Subtitle 34, shall furnish to the Commissioner of the Department of Insurance a certified copy of his daily bond register required by KRS 304.34-070, and the Commissioner shall retain the securities of each bail bondsman deposited with the custodian of insurance securities until all undertakings shall have been paid and satisfied in full.

(4) This Act shall not be construed to prevent licensed insurers providing security required by Subtitle 39 of KRS Chapter 304 and non-profit associations from posting security for their insureds or members for an offense arising from the operation of a motor vehicle, provided that such posting of security is merely incidental to the terms and conditions of an insurance contract or a membership agreement and provided further that no separate premium or charge therefor is required from the insureds or members.

Section 2. A new section of KRS Chapter 431 is created to read as follows:

(1) Any person charged with an offense, shall, at his appearance before a court, be ordered released pending trial on his personal recognizance or upon the execution of an unsecured appearance bond in an amount specified by the court, unless the court determines, in the exercise of its discretion that such a release will not reasonably assure the appearance of the person as required. When such a determination is made, the court shall, either in lieu of or in addition to the above methods of release, impose the first of the following conditions of release which will reasonably assure the appearance of the person for trial or, if no single condition gives that assurance, any combination of the following conditions:

(a) place the person in the custody of a designated person or organization agreeing to supervise him;

(b) place restrictions on the travel, association, or place of abode of the person during the period of release;

(c) require the execution of an appearance bond in a specified amount;

(d) require the execution of a bail bond in the following order of preference:

(1) with sufficient solvent surety;

(2) with the 10% deposit as provided in Section 5;

(3) with the deposit of cash equal to the amount of the bond or in lieu thereof acceptable security as provided in Section 5.

(e) impose any other condition deemed reasonably necessary to assure appearance as required, including a condition requiring that the person return to custody after specified hours.

(f) a judicial officer authorizing the release of a person under this section shall issue an appropriate order containing a statement of the conditions imposed, if any, shall inform such person of the penalties applicable to violations of the conditions of his release and shall advise him that a warrant for his arrest will be issued immediately upon any such violation.

(g) a person for whom conditions of release are imposed and who after twenty-four hours from the time of the release hearing continues to be detained as a result of his inability to meet the conditions of release, shall, upon application, be entitled to have the conditions reviewed by the court who imposed them. Unless the conditions of release are amended and the person is thereupon released, the court shall set forth in writing the reasons for requiring the conditions imposed. A person who is ordered released on a condition which requires that he return to custody after specified hours shall, upon application, be entitled to a review by the court who imposed the condition. Unless the requirement is removed and the person is thereupon released on another condition, the court shall set forth in writing the reasons for continuing the requirement.

(h) a judicial officer ordering the release of a person on any condition specified in this section may at any time amend his order to impose additional or different conditions of release: Provided, That, if the imposition of such additional or different conditions results in the detention of the person as a result of his inability to meet such conditions or in the release of the person on a condition requiring him to return to custody after specified hours, the provisions of subsection (g) shall apply.

Section 3. A new section of KRS Chapter 431 is created to read as follows:

(1) The amount of the bail shall be:

(a) sufficient to assure compliance with the conditions set forth in the bail bond;

(b) not oppressive;

(c) commensurate with the nature of the offense charged;

(d) considerate of the past criminal acts and conduct of the defendant;

(e) considerate of the financial ability of the accused.

(2) When a person is charged with an offense punishable by fine only the amount of the bail shall not exceed double the amount of the maximum penalty.

(3) When a person has been convicted of an offense and only a fine has been imposed the amount of the bail shall not exceed double the amount of the fine.

Section 4. A new section of KRS Chapter 431 is created to read as follows:

(1) The person for whom bail has been set in a designated amount may execute the bail bond without surety and deposit with the clerk of the court before which the proceeding is pending, a sum of money equal to 10% of the bail, but in no event shall such deposit be less than $10.

(2) Upon depositing this sum the person shall be released from custody subject to the conditions of the bail bond.

(3) When the conditions of the bail bond have been performed and the accused has been discharged from all obligations in the cause the clerk of the court shall return to the accused, unless the court orders otherwise, 90% of the sum which had been deposited and shall retain as bail bond costs 10% of the amount deposited. However, in no event shall the amount retained by the clerk as bail bond costs be less than $5. At the request of the defendant the court may order such 90% of defendant's bail deposit, or whatever amount

repayable to defendant from such deposit, to be paid to defendant's attorney of record.

(4) Whoever, having been released pursuant to this Act, wilfully fails to appear before any court shall, incur a forfeiture of any security which was given or pledged for his release, and, in addition, the penalties for the offenses described by KRS 520.070 and KRS 520.080. Any surety for such person who fails to appear shall be subject to the provisions of RCr 4.28.

(5) After a judgment for a fine and court costs or either is entered in the prosecution of a cause in which a deposit had been made in accordance with subsection (2) the balance of such deposit, after deduction of bail bond costs, shall be applied to the payment of the judgment.

Section 5. A new section of KRS Chapter 431 is created to read as follows:

(1) Any person for whom bail has been set may execute the bail bond with or without sureties which bond may be secured:

(a) By a deposit, with the clerk of the court, of an amount equal to the required bail, of cash, or stocks and bonds in which trustees are authorized to invest trust funds under the laws of this State; or

(b) By real estate situated in this State with unencumbered equity not exempt owned by the accused or sureties worth double the amount of bail set in the bond.

(2) If the bail bond is secured by stocks and bonds the accused or sureties shall file with the bond a sworn schedule which shall be approved by the court and shall contain:

(a) A list of the stocks and bonds deposited describing each in sufficient detail that it may be identified;

(b) The market value of each stock and bond;

(c) The total market value of the stocks and bonds listed;

(d) A statement that the affiant is the sole owner of the stocks and bonds listed and they are not exempt from execution;

(e) A statement that such stocks and bonds have not previously been used or accepted as bail in this State during the 12 months preceding the date of the bail bond; and

(f) A statement that such stocks and bonds are security for the appearance of the accused in accordance with the conditions of the bail bond.

(3) If the bail bond is secured by real estate the accused or sureties shall file with the bond a sworn schedule which shall contain:

(a) A legal description of the real estate;

(b) A description of any and all encumbrances on the real estate including the amount of each and the holder thereof;

(c) The market value of the unencumbered equity owned by the affiant;

(d) A statement that the affiant is the sole owner of such unencumbered equity and that it is not exempt from execution;

(e) A statement that the real estate has not previously been used or accepted as bail in this State during the 12 months preceding the date of the bail bond; and

(f) A statement that the real estate is security for the appearance of the accused in accordance with the conditions of the bail bond.

(4) The sworn schedule shall constitute a material part of the bail bond. The affiant commits perjury if in the sworn schedule he makes a false statement which he does not believe to be true. He shall be prosecuted and punished accordingly, or, he may be punished for contempt.

(5) A certified copy of the bail bond and schedule of real estate shall be filed immediately in the office of the court clerk of the county in which the real estate is situated and the State shall have a lien on such real estate from the time such copies are filed in the office of the County Court Clerk. The County Court Clerk shall record such bail bonds and schedules without requiring any advance fee, which fee shall be taxed as costs in the proceeding and paid out of such costs when collected.

(6) When the conditions of the bail bond have been performed and the accused has been discharged from his obligations in the cause, the clerk of the court shall return to him or his sureties the deposit of any cash, stocks or bonds. If the bail bond has been secured by real estate the clerk of the court shall forthwith notify in writing the County Court Clerk and the lien of the bail bond on the real estate shall be discharged.

(7) If the accused does not comply with the conditions of the bail bond the court having jurisdiction shall enter an order declaring the bail to be forfeited. Notice of such order of forfeiture shall be mailed forthwith by the clerk of the court to the accused and his sureties at their last known address. If the accused does not appear and surrender to the court having jurisdiction with 30 days from the date of the forfeiture or within such period satisfy the court that appearance and surrender by the accused is impossible and without his fault the court shall enter judgment for the State against the accused and his sureties for the amount of the bail and costs of the proceedings.

(8) When judgment is entered in favor of the State on any bail bond given for a felony or misdemeanor, or judgment for a political subdivision of the State on any bail bond given for a quasi-criminal or traffic offense, the Commonwealth's Attorney or political subdivision's attorney shall have execution issued on the

judgment forthwith and deliver same to the sheriff to be executed by levy on the cash, stocks or bonds deposited with the clerk of the court and the real estate described in the bail bond schedule. The Cash shall be used to satisfy the judgment and costs and paid into the treasury of the municipal corporation wherein the bail bond was taken if the offense was a violation of any penal ordinance of a political subdivision of this State, or into the treasury of the county wherein the bail bond was taken if the offense was a violation of any penal statute of this State. The stocks, bonds and real estate shall be sold in the same manner as in execution sales in civil actions and the proceeds of such sale shall be used to satisfy all court costs, prior encumbrances, if any and from the balance a sufficient amount to satisfy the judgment shall be paid into the treasury of the municipal corporation where in the bail bond was taken if the offense was a violation of any penal statute of this State. The balance shall be returned to the owner. The real estate so sold may be redeemed in the same manner as real estate may be redeemed after judicial or execution sales in civil actions.

(9) No stocks, bonds or real estate may be used or accepted as bail bond security in this State more than once in any 12 month period.

Section 6. A new section of KRS Chapter 431 is created to read as follows:

The provisions of this Act are exclusive of other provisions of law for the giving, taking, or enforcement of bail. The Supreme Court shall by rule or order, prescribe a uniform schedule of amounts of bail in misdemeanors and violations as defined in KRS 532.020. When bail has been set by such rule or a judicial officer for a particular offense or offender any sheriff or other peace officer may take cash bail or the deposit authorized by Section 4 of this Act, and release the offender to appear in accordance with the conditions of the bail bond. The officer shall give a receipt to the offender for the bail so taken and within a reasonable time deposit such bail with the clerk of the court having jurisdiction of the offense.

Section 7. A new section of KRS Chapter 431 is created to read as follows:

Any person who violates Section 1 of this Act shall be guilty of a Class A misdemeanor for the first offense. Each additional offense shall be deemed a Class D felony.

Section 8. All provisions of Subtitle 34 of KRS Chapter 304 inconsistent with this Act are hereby repealed.

The Committee Amendment to **HB 254** is as follows:

Amend printed copy of House Bill 254 on page 1, in the title line, by deleting the word "bail" and inserting in lieu thereof the words "the release of persons in criminal proceedings and prohibiting certain practices in relation thereto".

The Committee Substitute for **HB 254** is as follows:

HB 254, AN ACT relating to bail.

WHEREAS, the people of the Commonwealth of Kentucky by ratification of the Judicial Article mandated a reform in the administration of justice including the pretrial release of citizens charged with bailable offenses; and

WHEREAS, the present system providing for the pretrial release of persons charged with criminal offenses, including traffic offenses and other misdemeanors, was designed to fulfill the constitutional mandates that bail shall be allowed in all cases, other than capital offenses, in an amount to insure the presence of the defendants as ordered by the court; and

WHEREAS, bail bondsmen have, in large part, pre-empted those constitutional mandates and have reaped huge profits from the bail bonding business to the detriment of the rights of many citizens and have been a major cause of corruption in the administration of justice; and

WHEREAS, the present system has become so dominated by the bail bondsmen that pretrial release of defendants on their own recognizances in cases involving minor offenses has been discouraged without regard to the likelihood that most defendants will appear as ordered by the court if released on their own recognizances, all for the purpose of creating profits for the bail bondsmen; and

WHEREAS, in many instances the present system financially burdens lower income persons charged with minor offenses by virtually requiring them to pay for the services of a bail bondsman without regard to the likelihood that they will appear as ordered by the court if released on their own recognizances; and

WHEREAS, the present system has otherwise fostered wide-spread abuse of the laws and of the rights of the citizens of this Commonwealth through the corruptive influences of the bail bondsman in violation of the spirit of the Kentucky Constitution guaranteeing the equal administration of justice; and

WHEREAS, it is the intent of the General Assembly of the Commonwealth of Kentucky to provide for a uniform workable system for affording persons charged with bailable offenses their constitutional rights to pretrial release that will insure appearances as ordered by the courts without imposing undue hardships upon those persons;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 431 IS CREATED TO READ AS FOLLOWS:

(1) It shall be unlawful for any person to engage in the business of bail bondsman as defined in KRS 304.34-010(1), or to otherwise for compensation or other consideration:

(a) furnish bail or funds or property to serve as bail; or

(b) make bonds or enter into undertakings as surety;

for the appearance of persons charged with any criminal offense or violation of law or ordinance punishable by fine, imprisonment or death, before any of the courts of this state, including city courts, or to secure the payment of fines imposed and of costs assessed by such courts upon a final disposition.

(2) Nothing contained herein shall serve to release any bail bondsman heretofore licensed by this state from the obligation of undischarged bail bond liability existing on the effective date of this Act.

(3) Within thirty (30) days from the effective date of this Act, every bail bondsman heretofore licensed under Chapter 304, Subtitle 34, shall furnish to the Commissioner of the Department of Insurance a certified copy of his daily bond register required by KRS 304.34-070, and the Commissioner shall retain the securities of each bail bondsman deposited with the custodian of insurance securities until all undertakings shall have been paid and satisfied in full.

(4) This Act shall not be construed to limit or repeal KRS 431.021 or to prevent licensed insurers providing security required by Subtitle 39 of KRS Chapter 304 and non-profit associations from posting security or acting as surety for their insureds or members for an offense arising from the operation of a motor vehicle, provided that such posting of security or acting as surety is merely incidental to the terms and conditions of an insurance contract or a membership agreement and provided further that no separate premium or charge therefor is required from the insureds or members.

SECTION 2. A NEW SECTION OF KRS CHAPTER 431 IS CREATED TO READ AS FOLLOWS:

(1) All trial courts in this Commonwealth having jurisdiction of criminal causes shall provide such pretrial release investigation and services as necessary to effectuate the purposes of this Act.

(2) The Supreme Court may by appropriate rule or order establish and provide for such pre-trial investigation and release services and the costs thereof shall be deemed a necessary governmental expense payable from the state treasury.

SECTION 3. A NEW SECTION OF KRS CHAPTER 431 IS CREATED TO READ AS FOLLOWS:

Any person charged with an offense shall be ordered released by a court of competent jurisdiction pending trial on his personal recognizance or upon the execution of an unsecured bail bond in an amount set by the court or as fixed by the Supreme Court as provided by Section 7 of this Act, unless the court determines, in the exercise of its discretion that such a release will not reasonably assure the appearance of the person as required. When such a determination is made, the court shall, either in lieu of or in addition to the above methods of release, impose any of the following conditions of release:

(1) place the person in the custody of a designated person or organization agreeing to supervise him;

(2) place restrictions on the travel, association, or place of abode of the person during the period of release;

(3) require the execution of a bail bond:

(a) with sufficient personal surety or sureties acceptable to the court; in determining the sufficiency of such surety, or sureties, the court shall consider his character, his place of residence, his relationship with the defendant and his financial and employment circumstances; or

(b) with the 10% deposit as provided in Section 5; or

(c) with the deposit of cash equal to the amount of the bond or in lieu thereof acceptable security as provided in Section 6;

(4) impose any other condition deemed reasonably necessary to assure appearance as required, including a condition requiring that the person return to custody after specified hours;

(5) a court authorizing the release of a person pursuant to this section shall cause the issuance of an appropriate order containing a statement of the conditions imposed, if any, shall cause such person to be informed of the penalties applicable to violations of the conditions of his release, and shall cause him to be informed that a warrant for his arrest will be issued immediately upon any such violation;

(6) a person for whom conditions of release are imposed and who after twenty-four hours from the time of the imposition of said conditions continues to be detained as a result of his inability to meet the conditions of release, shall, upon written application or upon the court's own motion, be entitled to have the conditions reviewed by the court which imposed them. A person who is ordered released on a condition which requires that he return to custody after specified hours shall, upon written application or upon the court's own motion, be entitled to a review by the court which imposed the condition;

(7) if at any time following release of a defendant and before he is required to appear for trial, the court is advised of a material change in the defendant's circumstances or that he has not complied with all conditions imposed upon his release, the court having jurisdiction may: (a) order the arrest of the defendant, (b) enter an order requiring the defendant his surety or sureties to appear and show cause why the bail bond should not be forfeited or the conditions of his release be changed, or (c) both. A copy of said order shall be served upon the defendant, his surety or sureties. If the defendant fails to appear before the court as ordered or if, after hearing, the court finds the conditions of release have not been complied with, the court may change the conditions imposed or forfeit the bail bond or any portion thereof and enter a judgment for the Commonwealth against the defendant and his surety or sureties for the amount of the bail bond or any portion thereof and cost of the proceedings.

SECTION 4. A NEW SECTION OF KRS CHAPTER 431 IS CREATED TO READ AS FOLLOWS:

(1) The amount of the bail shall be:

(a) sufficient to insure compliance with the conditions of release set by the court;

(b) not oppressive;

(c) commensurate with the nature of the offense charged;

(d) considerate of the past criminal acts and the reasonably anticipated conduct of the defendant if released; and

(e) considerate of the financial ability of the defendant.

(2) When a person is charged with an offense punishable by fine only the amount of the bail bond set shall not exceed the amount of the maximum penalty and costs;

(3) When a person has been convicted of an offense and only a fine has been imposed the amount of the bail shall not exceed double the amount of the fine.

SECTION 5. A NEW SECTION OF KRS CHAPTER 431 IS CREATED TO READ AS FOLLOWS:

(1) Any person who has been permitted to execute a bail bond in accordance with Section 3, subsection (3)(b) of this Act shall deposit with the clerk of the court before which the action is pending, a sum of money equal to 10% of the bail, but in no event shall such deposit be less than $10.

(2) Upon depositing said sum the defendant shall be released from custody subject to all conditions of release imposed by the court.

(3) If the conditions of release have been performed and the defendant has been discharged from all obligations in the action the clerk of the court shall return to the defendant, unless the court orders otherwise, 90% of the sum deposited and shall retain as bail costs 10% of the amount deposited; provided, however, in no event shall the amount retained by the clerk as bail costs be less than $5. At the request of the defendant the court may order the amount repayable to defendant from such deposit to be paid to defendant's attorney of record.

(4) If a final judgment for a fine and court costs or either is entered in the prosecution of an action in which a deposit has been made in accordance with subsection (1) of this Section, the balance of such deposit, after deduction of bail costs as provided for in subsection (3) of this Section, shall be applied to the satisfaction of the judgment.

SECTION 6. A NEW SECTION OF KRS CHAPTER 431 IS CREATED TO READ AS FOLLOWS:

(1) Any person who has been permitted to execute a bail bond in accordance with Section 3, subsection (3)(c) of this Act may secure such bond:

(a) By a deposit, with the clerk of the court, of cash, or stocks and bonds in which trustees are authorized to invest funds under the laws of this Commonwealth having an unencumbered market value of not less than the amount of the bail bond; or

(b) By real estate situated in this Commonwealth with unencumbered equity, not exempt and owned by the defendant or a surety or sureties having a fair market value at least double the amount of the bail bond.

(2) If the bail bond is secured by stocks and bonds the defendant or the surety or sureties shall file with the bond a sworn schedule which shall be approved by the court and shall contain:

(a) A list of the stocks and bonds deposited describing each in sufficient detail that they may be identified;

(b) The present market value of each stock and bond;

(c) The total market value of the stocks and bonds listed;

(d) A statement that the affiant or affiants is the sole owner or owners thereof and that the stocks and bonds listed are not exempt from execution;

(e) A statement that such stocks and bonds have not previously been deposited or accepted as bail in this Commonwealth during the 12 months preceding the date of the bail bond; and

(f) A statement that such stocks and bonds are security for the appearance of the defendant in accordance with the conditions of release imposed by the court.

(3) If the bail bond is secured by real estate the defendant or surety or sureties shall file with the bond a sworn schedule which shall contain:

(a) A legal description of the real estate;

(b) A description of any and all encumbrances on the real estate including the amount of each and the holder thereof;

(c) The market value of the unencumbered equity owned by the affiant or affiants;

(d) A statement that the affiant is the sole owner, or in the case of jointly owned real estate, that affiants are the sole owners of such unencumbered equity and that it is not exempt from execution;

(e) A statement that the real estate has not previously been used or accepted as bail in this Commonwealth during the 12 months preceding the date of the bail bond; and

(f) A statement that the real estate is security for the appearance of the defendant in accordance with the conditions of release imposed by the court.

(4) The sworn schedule shall constitute a material part of the bail bond. An affiant shall be subject to penalty of perjury if in the sworn schedule he makes a false statement which he does not believe to be true.

(5) A certified copy of the bail bond and schedule of real estate accompanied by the necessary recording fee which shall be paid by the affiant or affiants shall be filed immediately by the clerk of the court requiring the bail bond in the office of the county court clerk of the county in which the real estate is situated. The county court clerk shall record such copies of said bail bonds and schedule and the Commonwealth shall have a lien upon such real estate from the date and time of such recordation. The instruments described herein shall be recorded in the Miscellaneous Encumbrances Book provided by the county court clerk.

(6) If the conditions of release imposed by the court have been performed and the defendant has been discharged from all obligations in the action, the clerk of the court shall return to him or his sureties the deposit of any cash, stocks or bonds. If the bail bond has been secured by real estate the clerk of the court requiring the bail bond shall forthwith notify in writing the county court clerk of the county where the real estate is situated and the lien on the real estate shall be discharged and the release thereof recorded in the margin.

SECTION 7. A NEW SECTION OF KRS CHAPTER 431 IS CREATED TO READ AS FOLLOWS:

The Supreme Court may by rule or order prescribe a uniform schedule of amounts of bail in designated misdemeanors and violations;

(1) Except as provided in subsection (2) of this Section, when the amount of bail is fixed by such rule or order of the Supreme Court for a particular offense, the clerk of the court or other public officers so authorized by the court's order shall accept cash bail in the prescribed amount or the deposit authorized by Section 5 of this Act and release the defendant to appear in accordance with the conditions of the bail bond. A receipt shall be delivered to the defendant for the bail so taken and within a reasonable time such bail shall be deposited with the clerk of the court having jurisdiction of the offense.

(2) A court may, in the exercise of its reasonable discretion, refuse to set bail in the amount prescribed by such rule or order of the Supreme Court, but in so doing, the court must set forth in writing its reasons for such refusal.

SECTION 8. A NEW SECTION OF KRS CHAPTER 431 IS CREATED TO READ AS FOLLOWS:

If a defendant shall wilfully fail to appear or shall wilfully fail to comply with the conditions of his release:

(1) the court may order a forfeiture of the bail, serving a copy thereof upon the defendant and his surety or sureties at their last known addresses; if the defendant or his surety or sureties do not appear within twenty (20) days after service of the order or a return of not found and satisfy the court that appearance or compliance by the defendant was impossible and without his fault, the court may enter judgment against the defendant and his surety or sureties for the amount of the bail and the costs of the proceedings for all of which execution may issue; and

(2) the defendant shall be subject to prosecution for the offenses prescribed in KRS 520.070 and KRS 520.080.

SECTION 9. A NEW SECTION OF KRS CHAPTER 431 IS CREATED TO READ AS FOLLOWS:

Any person who violates any provisions of this Act not otherwise punishable by law or statute shall be guilty of a Class A misdemeanor for the first offense, and guilty of a Class D felony for each additional offense.

Section 10. All provisions of Subtitle 34 of KRS Chapter 304 inconsistent with this Act are hereby repealed.

The Committee on Labor and Industry reported **HB 112, HB 114,** and **HB 125** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 112, AN ACT relating to employment.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 336 is created to read as follows:

As used in this Act, unless the context otherwise requires:

(1) "Professional Strike Breaker" means an individual who consistently offers himself for employment in order to break a strike and who does not intend to become a full-time member of the permanent work force.

(2) "Strike" includes any strike or other stoppage of work by employes and any concentrated slowdown or other concentrated interruption of operations by employes.

Section 2. A new section of KRS Chapter 336 is created to read as follows:

(1) It shall be unlawful for any person, partnership, agency, firm or corporation, or officer or agent thereof:

(a) To recruit, procure, supply, or refer any person for employment in place of an employe involved in a strike in which such person, partnership, agency, firm, or corporation is not directly interested;

(b) If involved in a strike, to employ in place of an employe involved in such strike any professional strikebreaker, or to employ any person in place of an employe involved in a strike who is recruited, procured, supplied or referred for employment by any person, partnership, agency, firm or corporation not directly involved in the strike;

(c) If not directly involved in the strike to contract or arrange with any other person, partnership, agency, firm or corporation to recruit, procure, supply, or refer persons for employment in place of employes involved in such strike;

(d) To recruit, solicit, or advertise for employes, or refer persons to employment, in place of employes involved in a strike without notice to such person, or in such advertisement, that there is a strike at the place at which employment is offered and that the employment offered is in place of employes involved in such strike.

(2) It shall be unlawful for any professional strikebreaker to take or offer to take the place in employment of employes involved in a strike.

(3) This section shall not apply to the Kentucky or the United States Employment Service.

Section 3. KRS 340.050 is amended to read as follows:

(1) No employment agency shall knowingly send or direct an applicant for employment to any fictitious job or position, or knowingly make any false representation concerning any matter within the scope of the business of the employment agency. The nonexistence of such job or position or the falsity of any such representation shall be prima facie evidence of the violation of this section.

(2) No employment agency shall knowingly send an applicant for employment to any place where a strike or any labor trouble exists or is pending [without first notifying the applicant of that condition in writing]. Sending an applicant [uninformed] to such a locality shall constitute prima facie evidence of the violation of this section.

(3) No employment agency shall circulate any false or misleading information or make any false statement or misrepresentation to any person seeking employment or to any employer seeking an employe.

(4) No employment agency shall agree with any employer or his agent or employe to secure the discharge of an employe; nor shall an employer or anyone in his employ or representing it, give or receive any gratuity, divide, or offer to divide, or share directly or indirectly, any compensation received from an applicant for employment.

(5) No employment agency shall make any false entry or statement in any report to the department or in any record, receipt or other document used in the business.

(6) A sample copy of the contract forms used between the employment agency and applicant-employes shall be filed with the department. Each time a change is made in any such form or a new form drawn, the changed or new form shall be filed with the department before any copies are issued to applicant-employes.

(7) Every employment agency's office or place of business shall be maintained and conducted in an orderly, clean and sanitary manner.

Section 4. A new section of KRS Chapter 336 is created to read as follows:

Any person, partnership, agency, firm or corporation violating subsections (1)(a), (b), (c) or (d) of Section 2 of this Act shall be fined not more than $1,000, or imprisoned in the penitentiary for a term of not more than five years, or both. Any person, partnership, agency, firm, or corporation, violating subsection (2) of Section 2 of this Act shall be fined not less than $25 or more than $100 or imprisoned for a term not exceeding six months, or both.

HB 114, AN ACT relating to consumer protection.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 367.170 is amended to read as follows:

Unfair, false, [False] misleading, or deceptive acts or practices in the conduct of any trade or commerce are hereby declared unlawful.

HB 125, AN ACT relating to child labor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 339.410 and 339.420 are repealed.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Agriculture and Natural Resources: **HB 319, HB 339, HB 337, HR 30, HB 338.**

Business Organizations and Professions: **HB 349.**

Cities: **HB 282.**

Health and Welfare: **HB 166.**

Judiciary-Courts: **HB 293, HB 356, HCR 19, HB 250, HB 291, HB 335.**

The Clerk announced the following Bills and Resolutions have been withdrawn from Committee consideration:

Business Organizations and Professions: **HB 18.**

Calendar

HB 4 with Committee Amendment attached thereto, **HB 20** with Committee Amendment attached thereto, **HB 231, HB 233** with Committee Amendment attached thereto, **HB 186** with Committee Substitute attached thereto, **HB 219, HB 145, HB 261,** and **HCR 13** taken from the Calendar and ordered read at lenght for the second time. Representative B. Richardson moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Motions, Petitions and Communications

Representative Givhan moved that the rules be suspended for Introduction of Bills and Resolutions. Agreed.

Introduction of Bills and Resolutions

HB 390, by Representatives Givhan, Tobin, Mason, Craddock, Vincent, Pearl, and Thomas: AN ACT relating to financing mass transportation programs.

HB 391, by Representatives Romines, Bendl, Kleier, and Burnette: AN ACT relating to toluene and toluol.

Motions, Petitions and Communications (continued)

Representative Stephens moved that the rules be suspended for Posting of Bills and Resolutions for Consideration. Agreed.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for consideration:

Education: **HB 171, HB 73, HB 249, HB 248.**

Labor and Industry: **HB 111, HB 121, HB 192, HB 262, HB 263, HB 329.**

The Clerk announced the following Bill had been withdrawn from Committee consideration:

Labor and Industry: **HB 187.**

Motions, Petitions and Communications (continued)

Representative Head moved the adoption of the following Legislative Citation No. 4:

The House of Representatives of the Commonwealth of Kentucky hereby honors the City of Providence for having been selected an ALL Kentucky City for 1975. This body extends congratulations to Providence on having been named to the ALL Kentucky City Hall of Fame as a result of having won this honor for three consecutive years. This body commends the Chamber of Commerce and the citizens of Providence for their efforts in attaining this honor. (Sponsored by Representative Head)

Agreed.

Representative Richards moved the adoption of the following Legislative Citation No. 7:

The House of Representatives of the Commonwealth of Kentucky hereby honors the City of Bowling Green for having been named an ALL Kentucky City of 1975. This body extends congratulations to Bowling Green for receiving this honor for three consecutive years and thus being named to the ALL Kentucky City Hall of Fame. This body commends the efforts of the Chamber of Commerce and the Citizens of Bowling Green in achieving this honor. (Sponsored by Representative Richards)

Agreed.

Representative Doss moved the adoption of the following Legislative Citation No. 5:

The House of Representatives of the Commonwealth of Kentucky hereby honors Central City for having been selected an ALL Kentucky City for 1975 by the Kentucky Chamber of Commerce. This body congratulates Central City for having won this honor for three consecutive years, thus being named to the ALL Kentucky City Hall of Fame. This body further commends the Chamber of Commerce and the citizens of

Central City for their efforts in receiving this honor. (Sponsored by Representative Doss)

Agreed.

Representative Givhan moved that the rules be suspended for Introduction of Bills and Resolutions. Agreed.

Introduction of Bills and Resolutions

HB 392, by Representatives Hancock, P. Richardson, A. S. Adams, Dawahare, Arnold, Brown, and Crupper: AN ACT relating to Kentucky retirement systems.

HB 393, by Representative Hancock: AN ACT relating to tax on foreign life insurance company premiums.

Motions, Petitions and Communications (continued)

Representative Burnette moved that **HB 188** be known as the "Buddy Adams' Lunatic Bill".

On the roll call the vote was yeas 0. Nays 81-Ackerson, B. Adams, J. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Blair, Blandford, Blume, Blythe, Boatwright, Brinkley, Bruce, Burnette, Carpenter, Clapp, Clarke, Cooper, Craddock, Crupper, Cyrus, DeFalaise, Denham, Deskins, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Floyd, Foster, Givhan, Gray, Guenthner, Hardwick, Head, Holbrook, Holloway, Hughes, Imes, Isler, Jones, Kenton, Kidd, King, Kleier, LeMaster, Mann, Mason, May, McBee, McBride, McGill, Morris, Muncy, Nett, O'Brien, Overstreet, Pearl, Priddy, Rattliff, Richards, B. Richardson, Romines, Sale, Schmidt, Siemens, Siler, Stephens, Stewart, Tobin, J. Turner, R. Turner, Vincent, White, Wible, Wooden, Wright, Yates.

The motion that **HB 188** be known as the "Buddy Adams' Lunatic Bill" was rejected.

Orders of the Day

Representative B. Richardson moved that **HB 24** be recommitted to the Committee on Business Organizations and Professions. Agreed.

HB 67 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Givhan moved that **HB 67** be passed.

On the roll call the vote was yeas 89-Ackerson, B. Adams, A. S. Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blandford, Blume, Blythe, Boatwright, Brinkley, Brown, Bruce, Burnette, Carpenter, Clapp, Clarke, Craddock, Crupper, Cyrus, Dawahare, DeFalaise, Deskins, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Floyd, Foster, Givhan, Gray, Guenthner, Hancock, Hardwick, Head, Holbrook, Holloway, Hopkins, Hughes, Imes, Isler, Jones, Kenton, King, Kleier, LeMaster, Lindsay, Mann, Mason, May, McBee, McBride, McGill, Morris, Muncy, Nett, O'Brien, Overstreet, Pearl, Priddy, Rattliff, Richards, B. Richarson, P. Richardson, Robinson, Romines, Sale, Schmidt, Siemens, Siler, Stephens, Stewart, Tobin, Thomas, J. Turner, R. Turner, Vincent, White, Wible, Wooden, Wright, Yates. Nays 2-Denham, Gay.

HB 67 was passed and the title agreed to.

Representative Givhan moved that the vote by which **HB 67** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 178 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Wooden moved that **HB 178** be passed.

Representative Stephens moved that **HB 178** be referred to the Committee on Education.

On the roll call the vote was yeas 33-B. Adams, A. S. Adams, J. Allen, W. Allen, Arnold, Bevins, Blythe, Brinkley, Burnette, Clapp, Dawahare, Denham, Hancock, Head, Holbrook, Holloway, Hurst, Imes, King, Lindsay, Mason, May, Nett, Rattliff, Robinson, Sale, Stephens, Stewart, J. Turner, Vincent, White, Wible, Wright. Nays 51-Ackerson, Bendl, Bennett, Benson, Beshear, Blair, Blandford, Blume, Boatwright, Carpenter, Clarke, Cooper, Craddock, Crupper, Cyrus, DeFalaise, Dietz, Doss, Dunn, Fitzgerald, Floyd, Foster, Freeman, Gay, Givhan, Gray, Guenthner, Hardwick, Hopkins, Hughes, Isler, Kenton, Kidd, Kleier, LeMaster, Mann, McBee, McBride, O'Brien, Overstreet, Pearl, Priddy, Richards, B. Richardson, Schmidt, Siemens, Tobin, Thomas, R. Turner, Wooden, Yates.

The motion that **HB 178** be referred to the Committee on Education was rejected.

On the roll call the vote was yeas 59-Ackerson, B. Adams, A. S. Adams, Bennett, Benson, Beshear, Blair, Blandford, Blume, Boatwright, Brown, Carpenter, Clarke, Craddock, Crupper, Cyrus, Dawahare, DeFalaise, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Floyd, Freeman, Gay, Guenthner, Hardwick, Holbrook, Holloway, Hopkins, Hughes, Isler, Kenton, Kidd, Kleier, LeMaster, Mann, Mason, McBee, McBride, McGill, Morris, O'Brien, Overstreet, Pearl, Priddy, Richards, B. Richardson, P. Richardson, Romines, Schmidt, Siemens, Stewart, Tobin, J. Turner, R. Turner, Wooden, Yates. Nays 30-J. Allen, W. Allen, Bendl, Bevins, Blythe, Brinkley, Bruce, Burnette, Clapp, Denham, Deskins, Foster, Givhan, Gray, Hancock, Head, Hurst, Imes, King, Lindsay, May, Nett, Rattliff, Robinson, Sale, Stephens, Vincent, White, Wible, Wright.

HB 178 was passed and the title agreed to.

Representative Wooden moved that the vote by which **HB 178** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Announcements

Representative Blume announced a meeting of the Committee on Labor and Industry upon adjournment, Monday, February 2, 1976, for consideration of **HB 300.**

Representative Clarke announced a meeting of the Committee on Appropriations and Revenue for 1:30, Senate Chamber, 9:00-12:30, Tuesday, Wednesday, Thursday, February 3, 4, 5, 1976.

Representative Sale moved that the rules be suspended to allow announcements for co-sponsors of bills. Agreed.

Representative Sale moved that all requests by House members to co-sponsor Bills and Resolutions be approved. Agreed.

The following members requested that their names be added as co-sponsors of Bills and Resolutions: Representative Romines, **HB 345;** Representative Donnermeyer, **HB 141;** Representative Imes, **HB 1;** Representative Dietz, **HR 22;** Representative Blair, **HR 37;** Representative Imes, **HB 215, HB 161;** Representative Burnett, **HB 273;** Representative Arnold, **HB 172, HB 173;** Representative Romines, **HB 85;** Representative Dietz, **HR 22;** Representative White, **HB 277;** Representative Robinson, **HB 277;** Representative Hughes, **HB 316;** Representative Mann, **HB 73;** Representative Stephens, **HB 73;** Representative Romines, **HCR 5, HCR 6.**

Adjournment

Representative B. Richardson moved that the House adjourn until 4:00 p.m., Monday, February 2, 1976.

On the roll call the vote was yeas 50-B. Adams, Arnold, Bennett, Benson, Beshear, Bevins, Blair, Blume, Bruce, Burnette, Carpenter, Craddock, Crupper, Cyrus, Dietz, Donnermeyer, Doss, Floyd, Foster, Gay, Givhan, Gray, Hardwick, Hughes, Isler, Jones, Kenton, King, Kleier, Mason, May, McBee, McGill, Nett, O'Brien, Priddy, Richards, B. Richardson, Romines, Sale, Schmidt, Siemens, Siler, Stewart, Tobin, J. Turner, R. Turner, White, Wible, Wooden. Nays 15-W. Allen, Bendl, Blythe, DeFalaise, Deskins, Fitzgerald, Guenthner, Hancock, Holbrook, Holloway, Hopkins, Imes, LeMaster, Mann, Overstreet, Pearl.

The motion to adjourn was adopted.

MONDAY, FEBRUARY 2, 1976

TWENTY-FIRST LEGISLATIVE DAY

The House was called to order by Speaker Kenton.

Prayer by Reverend Roy H. Jones, Smithfield Baptist Church, Smithfield, Kentucky.

The roll was called. All present except Representatives Kleier, McGill, Morgan, and Overstreet.

Representative Isler moved that absent members be granted leave of absence in accordance with the prevailing rules of the House. Agreed.

Representative Hughes moved that the reading of the Journal of January 29, 1976, be dispensed with and the same approved. Agreed.

Representative Lloyd Clapp, the Speaker Pro Tempore, assumed the Chair.

Introduction of Bills and Resolutions

HR 40, by Representatives Bendl, Ackerson, Benson, Bevins, Blume, Kidd, Kleier, McBee, McGill, Siemens, and Wooden: A RESOLUTION directing the appointment of a special committee to study the needs of children from the prenatal period through eight years of age.

HR 41, by Representatives Bendl, Ackerson, Bennett, Benson, Blume, Dunn, Kidd, Kleier, Maynard, Nett, Priddy, Romines, Siemens, Wooden, and Yates: A RESOLUTION directing the study of the conduct of elections, elective offices, and terms of elective officials.

HB 394, by Representative Yates: AN ACT relating to school districts.

HB 395, by Representatives Bendl, Blume, Kenton, and Wooden: AN ACT relating to rental agreements.

HB 396, by Representatives Mann, Carpenter, Blandford, Brown, Cyrus, Dietz, Doss, Hancock, Isler, May, McBee, Nett, Overstreet, Pearl, and Priddy: AN ACT relating to the practice of optometry.

HB 397, by Representative Freeman: AN ACT relating to retail installment sales.

HB 398, by Representative Freeman: AN ACT relating to wages and hours.

HB 399, by Representative Dietz: AN ACT relating to local air boards.

HB 400, by Representative Givhan: AN ACT relating to income tax.

HB 401, by Representative Givhan: AN ACT relating to sales tax.

HB 402, by Representatives Hancock, Blandford, Burnette, Denham, Donnermeyer, Fitzgerald, Givhan, Head, Little, Mann, Mason and P. Richardson: AN ACT relating to corrupt practices.

HB 403, by Representative DeFalaise: AN ACT relating to limited access facilities.

HB 404, by Representative Gray: AN ACT relating to juror compensation.

HB 405, by Representative Gray: AN ACT relating to individual income tax.

HB 406, by Representative Blume: AN ACT relating to the Legislative Research Commission.

HB 407, by Representative Benson: AN ACT relating to equal opportunity.

HB 408, by Representatives McBride and Blythe: AN ACT relating to petty loan companies.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Natural Resources: **HB 385.**

Appropriations and Revenue: **HB 380, HB 381, HB 393.**

Cities: **HB 377, HB 387, HB 390.**

Education: **HB 382, HB 383.**

Elections and Constitutional Amendments: **HB 379.**

Health and Welfare: **HB 376, HB 391.**

Highways and Traffic Safety: **HJR 36.**

Judiciary-Courts: **HB 378, HB 389.**

Labor and Industry: **HB 386.**

Public Utilities and Transportation: **HB 384.**

State Government: **HB 388, HB 392, HCR 37, HJR 38, HR 39.**

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration.

Health and Welfare: **HB 204.**

Highways and Traffic Safety: **HB 321.**

Report of Committees

The Committee on Rules reported **HB 55, HB 72, HB 141** with Committee Amendment attached thereto, **HB 145** and **HB 219** have been posted for passage in Orders of the Day, February 3, 1976.

The Committee on Rules reported that **HB 174,** with Committee Amendment attached thereto, has been recommitted to the Committee on Banking and Insurance.

The Committee on Rules reported that **HB 194,** with Committee Amendment attached thereto, has been recommitted to the Committee on Health and Welfare.

The Committee on Rules reported **HB 40** has been recommitted to the Committee on State Government.

The Committee on Rules reported **HB 54** has been recommitted to the Committee on Appropriations and Revenue.

Calendar

HB 59 with Committee Amendment attached thereto, **HB 82** with Committee Amendment attached thereto, **HB 80, HB 191, HB 84** with Committee Amendment attached thereto, **HB 254** with Committee Amendment and Committee Substitute attached thereto, **HB 112, HB 114,** and **HB 125** taken from the Calendar and ordered read at length for the second time. Representative B. Richardson moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Motions, Petitions and Communications

Representative Nett moved that **HB 331** be withdrawn. Agreed.

Representative Romines moved that **HB 156** be withdrawn. Agreed.

Representative Hughes filed Floor Amendment No. 1 to **HB 193.**

Representative Bendl requested that she be recorded as voting "yea" on **HB 178.**

Representative Craddock moved the adoption of the following Legislative Citation No. 10:

The House of Representatives of the Commonwealth of Kentucky hereby honors the city of Elizabethtown for having been selected for the seventh year an ALL Kentucky City for 1975. This body extends congratulations to Elizabethtown for its membership in the All Kentucky City Hall of Fame. This body commends the Chamber of Commerce and the citizens of Elizabethtown for their efforts in attaining this honor. (Sponsored by Representative Craddock)

Agreed.

Representative Siemens moved that his name be withdrawn as sponsor of **HB 126** and that the bill be withdrawn. Agreed.

Representative Hardwick moved the adoption of the following Legislative Citation No. 11:

The House of Representatives of the Commonwealth of Kentucky hereby honors the city of Monticello for having been selected an ALL Kentucky City of 1975. This body extends congratulations to Monticello for having won this honor for two consecutive years. This body commends the Chamber of Commerce and the citizens of Monticello for their efforts in attaining this honor. (Sponsored by Representative Hardwick)

Agreed.

Representative Gray requested that he be recorded as voting "yea" on **HB 178.**

Representative Sale moved that requests by members to co-sponsor Bills and Resolutions be sent to the Clerk and that these be recorded in the Journal and approved. Agreed.

Representative Beshear moved that the rules be suspended for Introduction of Bills and Resolutions. Agreed.

Introduction of Bills and Resolutions

HB 409, by Representative Cooper: AN ACT relating to the department of transportation.

HB 410, by Representatives Romines and Priddy: AN ACT relating to commerce and trade.

HB 411, by Representative Givhan: AN ACT relating to the distribution of the Legislative Record.

HB 412, by Representative Givhan: AN ACT relating to persistent felony offenders.

HB 413, by Representatives Priddy, Ackerson, Blume, Cyrus, Gray, Hughes, Romines, and Yates: AN ACT relating to insurance.

HB 414, by Representatives Donnermeyer, Mann, DeFalaise, Dietz, Isler, King, and Schmidt: AN ACT proposing to amend Section 226 of the Constitution relating to lotteries and gift enterprises.

HB 415, by Representative Hancock: AN ACT relating to state retirement systems.

HB 416, by Representatives Jones, Mason, Burnette, Craddock, Carpenter, Deskins, Doss, Fitzgerald, Hancock, Head, Little, Richards, Wright, Tobin and White: AN ACT relating to election officials.

Announcements

The following meetings were announced:

Appropriations and Revenue, 9:00 a.m., February 3, 1976, Senate Chamber.

Elections and Constitutional Amendments, on adjournment, February 3, 1976, Room 305A.

Cities, 9:00 a.m., February 3, 1976, Room 305.

Education, 10:30 a.m., February 3, 1976, Room 305.

The Clerk announced the following members requested that their names be added as co-sponsors to Bills and Resolutions: Representative Little, **HB 308;** Representative Burnette, **HB 160;** Representative Hardwick, **HB 75, HB 172, HB 173, HB 216, HB 242, HB 259, HB 277, HB 285, HB 253, HB 308, HB 309, HB 320, HB 341,** and **HB 345.**

Adjournment

Representative Beshear moved that the House adjourn until 2:00 p.m., Tuesday, February 3, 1976.

On the roll call the vote was yeas 59-J. Allen, Bendl, Bennett, Beshear, Bevins, Blair, Blandford, Blume, Boatwright, Brown, Bruce, Burnette, Carpenter, Cooper, Craddock, Crupper, Cyrus, DeFalaise, DeMarcus, Denham, Dietz, Donnermeyer, Doss, Dunn, Floyd, Foster, Freeman, Gay, Givhan, Hardwick, Head, Hughes, Isler, Kenton, Kidd, LeMaster, Lindsay, May, McBee, McBride, Morris, Muncy, Nett, O'Brien, Pearl, Rattliff, P. Richardson, Robinson, Romines, Sale, Siler, Stewart, Tobin, J. Turner, R. Turner, Vincent, White, Wible, Wooden. Nays 21-B. Adams, Benson, Brinkley, Clarke, Deskins, Fitzgerald, Gray, Guenthner, Hancock, Holbrook, Hopkins, Hurst, Imes, Jones, Little, Mann, Priddy, Richards, Schmidt, Stephens, Wright.

The motion to adjourn was adopted.

TUESDAY, FEBRUARY 3, 1976

TWENTY-SECOND LEGISLATIVE DAY

The House was called to order by Speaker Kenton.

Prayer by Reverend K. L. Moore, First Baptist Church, Frankfort.

The roll was called. All present except Representative Morgan.

Representative Isler moved that absent members be granted leave of absence in accordance with the prevailing rules of the House. Agreed.

Representative Hughes moved that the reading of the Journal of February 2, 1976, be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HB 417, by Representatives Hopkins, Imes, Blair, Boatwright, Burnette, Carpenter, Cooper, Cyrus, Dawahare, DeFalaise, Denham, Hardwick, Hughes, Overstreet, P. Richardson, Schmidt, Vincent, and Wright: AN ACT relating to elections.

HB 418, by Representatives Clapp, Burnette, and Boatwright: AN ACT relating to workmen's compensation.

HB 419, by Representatives King, Muncy, and DeMarcus: AN ACT relating to railroads.

HB 420, by Representatives Beshear and O'Brien: AN ACT relating to the salaries of coroners.

HB 421, by Representative Brown: AN ACT relating to retirement credit for military service.

HB 422, by Representatives Stephens, Arnold, Givhan, Hancock, Lindsay, and Wible: AN ACT relating to motor vehicle reparations.

HB 423, by Representatives Beshear and O'Brien: AN ACT relating to the salaries of county officials.

HB 424, by Representative Beshear: AN ACT relating to the disposition of bodies and valuables found thereon.

HB 425, by Representatives Beshear and O'Brien: AN ACT relating to coroner's jury.

HB 426, by Representative DeFalaise: AN ACT relating to motor vehicle registration.

HB 427, by Representatives Siler, Muncy, Blair and DeMarcus: AN ACT relating to school holidays.

HB 428, by Representatives Fitzgerald, Blandford, Blair, Deskins, Doss, Imes, and R. Turner: AN ACT relating to pay toilets in public buildings.

Senate Message

Announcing passage of **SB 91, SB 98, SB 99** and **SB 102.**

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **HB 394, HB 400, HB 401, HB 404, HB 405, HB 415, HB 416.**

Banking and Insurance: **HB 408, HB 413.**

Business Organizations and Professions: **HB 397, HB 410.**

Cities: **HB 395.**

Counties and Special Districts: **HB 399.**

Elections and Constitutional Amendments: **HB 402, HB 414.**

Health and Welfare: **HB 396, HR 40.**

Highways and Traffic Safety: **HB 398, HB 403, HB 409.**

Judiciary-Statutes: **HB 407, HB 412, SB 20.**

State Government: **HB 406, HB 411, HR 41.**

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Business Organizations and Professions: **HB 258.**

Counties and Special Districts: **HB 65, HB 278, HB 202.**

Judiciary-Statutes: **HB 370, HB 274, HB 275.**

Banking and Insurance: **HB 334.**

Report of Committees

The Committee on Rules reported **HB 59** with Committee Amendment attached thereto, **HB 80, HB 84** with Committee Amendment attached thereto, **HB 125, HB 217, HB 231, HB 254** with Committee Substitute and Committee Amendment attached thereto, have been posted for passage in Orders of the Day, February 4, 1976.

The committee on Rules reported the following Bills have been recommitted:

HB 1, with committee Amendment attached thereto, to the Committee on Agriculture and Natural Resources.

HB 162 to the Committee on Business Organizations and Professions.

The Committee on Banking and Insurance reported **HB 269,** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 269, AN ACT relating to insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of Subtitle 12 of KRS Chapter 304 is created to read as follows:

Each policy of insurance issued for delivery in the Commonwealth of Kentucky shall have printed thereon or attached thereto in a conspicuous position a brief summary of the substantive provisions of the policy and of any requirements of notice the giving of which is a condition precedent to the insurer's liability under the policy. Each summary shall be expressed in clear and simple language so as to be readily understandable to an average policyholder of the type of policy being issued.

Section 2. A new section of Subtitle 12 of KRS Chapter 304 is created to read as follows:

The commissioner of insurance may adopt regulations in accordance with KRS Chapter 13 to provide for the effective administration of this Act.

Section 3. A new section of Subtitle 12 of KRS Chapter 304 is created to read as follows:

The commissioner of insurance may suspend the certificate of authority of any insurer who violates the provisions of this Act or any regulation adopted pursuant thereto until such insurer is found to be in compliance with this Act.

The Committee Substitute for **HB 269** is as follows:

HB 269, AN ACT relating to insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 304.14-230 is hereby amended to read as follows:

(1) Subject to the insurer's requirements as to payment of premium, every policy shall be mailed or delivered to the insured or to the person entitled thereto within a reasonable period of time after its issuance, except where a condition required by the insurer has not been met by the insured.

(2) In the event the original policy is delivered or is so required to be delivered to or for deposit with any vendor, mortgagee, or pledgee of any motor vehicle or aircraft, and in which policy any interest of the vendee, mortgagor, or pledgor in or with reference to such vehicle or aircraft is insured, a duplicate of such policy, or memorandum thereof setting forth the name and address of the insurer, type of coverage, limit of liability, premiums for the respective coverages, and duration of the policy, shall be delivered by the vendor, mortgagee, or pledgee to each such vendee, mortgagor, or pledgor named in the policy or coming within the group of persons designated in the policy to be so included. If the policy does not provide coverage of legal liability for injury to persons or damage to the property of third parties, a statement of such fact shall be printed, written, or stamped conspicuously on the face of such duplicate policy or memorandum. This subsection does not apply to inland marine floater policies.

(3) At the time of application or prior to the delivery of the policy required in subsection (1), or the duplicate policy or memorandum required in subsection (2), the insurer shall deliver to the insured or policyowner a brief summary outline of the substantive provisions of the policy and of any requirements of notice the giving of which is a condition precedent to the insurer's liability under the policy. This subsection shall apply only to individual policies covering personal lines of insurance. The summary outline herein required is for the purpose of policyowner information only and shall not be interpreted as varying the insuring agreements, terms, conditions, exclusions or other policy provisions from those actually contained in the policy. It shall not be considered in construing any policy under the provisions of KRS 304.14-360.

(4) Each summary outline required by subsection (3) shall be expressed in clear and simple english language so as to be readily understandable to an average policyowner of the type of insurance being issued. The form and content of any such summary outline shall be subject to regulation by the Commissioner and no such summary outline shall be delivered in this state until it has been filed with and approved by the Commissioner in the manner prescribed in KRS 304.14-120.

The Committee on Cities reported **HB 36** and **HB 38,** with committee Amendment attached thereto, with the expression of opinion that same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 36, AN ACT relating to the medical assistance program.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 205.510 is amended to read as follows:

As used in this chapter as it pertains to medical assistance unless the context clearly requires a different meaning:

(1) "Council" means the advisory council for medical assistance;

(2) "Dentist" means a person authorized to practice dentistry under laws of the commonwealth;

(3) "Medical care" as used in this chapter means essential medical, surgical, dental, optometric, podiatric, and nursing services, in the home, office, clinic, or other suitable places, which are provided or prescribed by physicians, optometrists, podiatrists or dentists licensed to render such service, including drugs and medical supplies, appliances, laboratory, diagnostic and therapeutic services, nursing home and convalescent care, hospital care as defined in KRS 205.560(1)(a), and such other essential medical services and supplies as may be prescribed by such persons. However, this section does not authorize optometrists to perform any services other than those authorized by KRS chapter 320;

(4) "Nurses" means persons authorized to practice professional nursing under the laws of the commonwealth;

(5) "Nursing home" means a facility which provides routine medical care in which physicians regularly visit patients, which provide nursing services and procedures employed in caring for the sick which require training, judgment, technical knowledge, and skills beyond that which the untrained person possesses, and which maintains complete records on patient care, and which is licensed pursuant to the provisions of KRS 216.405;

(6) "Optometrist" means a person authorized to practice optometry under the laws of the commonwealth;

(7) "Pharmacist" means a person authorized to practice pharmacy under the laws of the commonwealth;

(8) "Physician" means a person authorized to practice medicine or osteopathy under the laws of the commonwealth;

(9) "Podiatrist" means a person authorized to practice podiatry under the laws of the commonwealth;

(10) *"Primary Care Center" means a facility which provides comprehensive medical care with emphasis on the prevention of disease and the maintenance of the patients' health as opposed to the treatment of disease.*

(11) [(10)] "Public assistance recipient" means a person who has been certified by the bureau of public assistance of the department for Human Resources as being eligible for, and a recipient of, public assistance under the provisions of this chapter;

(12) [(11)] "Other persons eligible for medical assistance" may include the categorically needy excluded from money payment status by state requirements and classifications of medically needy individuals as permitted by federal laws and regulations and as prescribed by regulation of the secretary for human resources or his designee;

(13) [(12)] "Vendor payment" means a payment for medical care which is paid by the department for human resources directly to the authorized person or institution which rendered medical care to an eligible recipient.

Section 2. KRS 205.590 is amended to read as follows:

(1) The following technical advisory committees shall be established for the purpose of acting in an advisory capacity to the council with respect to the administration of the medical assistance program and in performing the function of peer review:

(a) A Technical Advisory Committee on Physician Services consisting of five physicians appointed by the Council of the Kentucky State Medical Association;

(b) A Technical Advisory Committee on Hospital Care consisting of five hospital administrators appointed by the Board of Trustees of the Kentucky Hospital Association;

(c) A Technical Advisory Committee on Dental Care consisting of five dentists appointed by the Kentucky Dental Association;

(d) A Technical Advisory Committee on Nursing Service consisting of five nurses appointed by the Board of Directors of the Kentucky State Association of Registered Nurses;

(e) A Technical Advisory Committee on Drugs consisting of five pharmacists appointed by the Kentucky Pharmaceutical Association;

(f) A Technical Advisory Committee on Nursing Home Care consisting of five members appointed by the Kentucky Association of Nursing Homes;

(g) A Technical Advisory Committee on Optometric Care consisting of five members appointed by the Kentucky Optometric Association;

(h) A technical advisory committee on podiatric care consisting of five podiatrists appointed by the Kentucky Podiatry Association.

(i) A technical advisory committee on primary care consisting of five (5) primary care providers, two (2) of whom shall represent licensed Health Maintenance Organizations, appointed by the governor, until such time as an association of primary care providers is established, whereafter the association shall appoint the members.

(2) The members of the technical advisory committees shall serve until their successors are appointed and qualified.

(3) Each appointive member of a committee shall serve without compensation but shall be entitled to reimbursement for actual and necessary expenses in carrying out his duties.

HB 38, AN ACT relating to a permit for withdrawal of water from public waters.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 151.150 is amended to read as follows:

(1) Any person, business, industry, city, county, water district or other political subdivision desiring to withdraw, divert, or transfer public water must register with the division and submit an application for a permit on a form to be supplied by the division.

(2) Such permit shall be valid for a period of two (2) years, after which time a new application for a permit shall be completed.

(3) [(2)] Any person, business, industry, city, county, water district or other political subdivision withdrawing, transferring or diverting public water from a stream, lake, ground water source, or other body of public water within or along the borders of the commonwealth without a permit as required in KRS 151.140 shall be subject to the penalties provided in KRS 151.990.

The Committee Amendment to **HB 38** is as follows:

Amend printed copy of House Bill 38 on page 1, line 8 beginning after the number "(2)" strike the entire line,

and on page 1, line 9 strike the entire line,

and on page 1, line 10 strike the entire line and in place thereof add the following: "Any user of water under this Act shall file an annual report on forms prescribed by the division."

and on page 1, line 17 after the end of line insert the number "(4)" and add the following: "The provisions of this Act do not apply to the casual user of water who uses less than five thousand (5,000) gallons of water annually."

The Committee on Education reported **HB 76** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 76, AN ACT relating to higher education academic programs.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 164 is created to read as follows:

As used in this Act, unless the context otherwise requires:

(1) "Lower division academic course" means any academic course offered for college or university credit which is designated as a freshman or sophomore level course by the boards of trustees of the four year state colleges and universities.

Section 2. A new section of KRS Chapter 164 is created to read as follows:

(1) Each community college of the University of Kentucky community college system may offer, within the two year academic curriculum of the college, any and all lower division academic courses offered for undergraduate credit at any and all of the four year state supported colleges and universities.

(2) All lower division academic courses offered by the community colleges shall be transferable for academic credit to any and all four year state supported colleges and universities, regardless of the number of academic credits earned by any student at one or more community college.

The Committee on Labor and Industry reported **HB 300,** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 300, AN ACT relating to public employes' collective bargaining.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 336 is created to read as follows:
As used in this Act:
(1) "Person" includes one or more individuals, employe organizations, public employes, public employers, associations, corporations, legal representatives, trustees, trustees in bankruptcy, or receivers;
(2) "Public employer" means the Commonwealth of Kentucky or any political subdivision of the state, including, without limitation, any municipal corporation, county, school district, school board, state institution of higher learning, air board, any state licensed institution, any public or special district, or any state agency, authority, commission, department, co-operative, publicly owned or operated utility, quasi-governmental corporation, or board or other branch of public employment;
(3) "Public employe" means any person holding a position by appointment or employment in the service of a public employer, except:
(a) Persons holding elective office;
(b) Employes of the general assembly and employes of any other legislative body of the public employer whose principal duties are directly related to the performance of the legislative functions of such body;
(c) Employes on the staff of the governor or the chief executive of the public employer whose principal duties are directly related to the performance of the governor or the chief executive;
(4) "Board" means the Commonwealth of Kentucky employment relations board created by this Act;
(5) "Employe organization" means any bona fide employe organization in which employes participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, disputes, wages, rates of pay , hours of employment or conditions of employment;
(6) "Exclusive representative" means the employe organization which has been (a) certified for the purposes of this Act by the Commonwealth of Kentucky employment relations board as the exclusive representative of the public employes in an appropriate unit, or (b) recognized by a public employer prior to the effective date of this Act as the exclusive representative of the employes in an appropriate unit, or subsequently after notice to the employes and interested organizations as provided by rules of the board, upon evidence that the employe organization has been designated as the exclusive representative by a majority of the employes in an appropriate unit;
(7) "Supervisor" means any individual having authority, in the interest of the public employer, to hire, transfer, suspend, lay-off, recall, promote, discharge, assign, reward, or discipline other public employes;
(8) "To bargain collectively" is the performance of the mutual obligation of the public employer or his designated representatives and the representative of the employes to meet at reasonable times, including meetings in advance of the budget-making process, and negotiate in good faith with respect to wages, hours, other conditions of employment including any other matters agreed to by the parties as a subject of bargaining and other matters of mutual concern, or the negotiation of an agreement, or any question arising thereunder and the execution of a written contract incorporating any agreement reached if requested by either party, but such obligation shall not compel either party to agree to a proposal or require the making of a concession;
(9) "Professional employe" means any employe engaged in work which is predominantly intellectual, involving the consistent exercise of discretion and judgment in its performance and requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course in an institution of higher learning or a hospital, as distinguished from an apprenticeship; or an employe who has completed the courses of such specialized intellectual instruction and is performing related work under supervision of a professional person to qualify himself to become a professional employe;
(10) "Wages" means hourly rates of pay, salaries or other forms of compensation for services rendered.

Section 2. A new section of KRS Chapter 336 is created to read as follows:
(1) Within the department of labor there is hereby created a board to be known as the Commonwealth of Kentucky employment relations board which shall be composed of five members, appointed by the governor

on the basis of training, practical experience, education, and character. His announcement and official act of appointments shall enumerate in detail those qualities, training, education and practical experience of the appointee, upon which he based his appointment. Initial appointments shall be made by the governor within ninety (90) days of the effective date of this Act. A member of the board during his period of service as such shall hold no other public office and he shall allow no other responsibilities to interfere or conflict with his duties as a full-time board member. Two of the original members shall be appointed for terms of two years, one for a term of three years and two for terms of four years, but their successors shall be appointed for terms of four years each, except that any individual chosen to fill a vacancy shall be appointed only for the unexpired term of the term of the member whom he is to succeed. The governor shall designate one member to serve as chairman of the board, and he shall receive an additional twenty-five hundred dollars a year for such services. Any member of the board may be removed by the governor, upon notice and public hearing, for neglect of duty or malfeasance in office, but for no other cause.

(2) A vacancy in the board shall not impair the right of the remaining members to exercise all the powers of the board, and three members of the board shall, at all times, constitute a quorum. Board vacancies shall be filled by the governor within ninety (90) days.

(3) The board shall make an annual report in writing to the governor and the commissioner of labor, stating in detail the work it has done.

(4) Each member of the board shall receive a salary equal to that of circuit judges and shall be eligible for reappointment. The board shall appoint an executive director and such other persons as it may from time to time find necessary for the proper performance of its duties and may prescribe their duties, fix their compensations and provide for reimbursement of their expenses within the amounts made available therefor by appropriation. Attorneys appointed under this section may, at the direction of the board, appear for and represent the board in any case in court. The board may establish or utilize such regional, local, or other agencies, and utilize such voluntary and uncompensated services as may from time to time be needed.

(5) All employes of the board shall be appointed by the board on the basis of training, practical experience, education, and character; provided, that special regard shall be given to the practical training and experience which employes have for the particular position involved.

(6) Examiners and other agents whose functions are to conduct hearings, shall be selected and assigned with due regard to their impartiality, judicial temperament and knowledge. If in any proceeding under this Act, any party prior to five days before the hearing thereto shall file with the board a sworn statement charging that the examiner or other agent designated to conduct the hearing is believed to be biased or partial in the proceeding, such examiner may be disqualified by the board, and another examiner or agent may be designated to conduct such proceeding. At least ten (10) days preceding any hearing the board shall notify all parties to a proceeding of the name of the examiner or agent designated to conduct such hearing.

(7) The principal office of the board shall be in the city of Frankfort, but it may meet and exercise any or all of its powers at any other place within the state. The board may, by one or more of its members or any such agents or agencies as it may designate, conduct in any part of this state any proceeding, hearing, investigation, inquiry, or election necessary to the performance of its functions. A member who participates in any such proceeding shall not be disqualified from subsequently participating in a decision of the board in the same case.

(8) In addition to the powers and functions provided in other sections of this Act, the board shall have the following powers and functions:

(a) To mediate, conciliate, or cause mediation or conciliation;

(b) To make studies and analyses of, and act as a clearing house of information relating to conditions of employment of public employes throughout the Commonwealth of Kentucky, and to request assistance, services, and data from any public employer or governmental unit, and such public employers or governmental units are authorized and directed to provide such assistance, services and data as will enable the board to carry out its functions and powers;

(c) To make available to employe organizations, government or public employers, mediators, fact-finding panels and joint study committees statistical data relating to wages, benefits and employment practices in public and private employment applicable to various localities and occupations to assist them to resolve issues in negotiations;

(d) To establish, after consulting representatives of employe organizations and public employers, panels of qualified persons to be available to serve as mediators, members of fact-finding panels and arbitrators;

(e) To provide training equally for representatives of employe organizations and public employers in the rules and techniques of collective bargaining procedures;

(f) To conduct studies of problems involved in representation and negotiation and to make recommendations from time to time for legislation;

(g) To hold hearings pursuant to this Act and for the purpose of such hearings and inquiries, to administer oaths and affirmations, examine witnesses and documents, take testimony and receive evidence, compel the attendance of witnesses and the production of documents by the issuance of subpoenas, and delegate such powers to any member of the board or any attorney-trial examiner appointed by the board for the performance of its functions;

(h) To make, amend, and rescind, from time to time, after notice and a public hearing, such rules, regulations and procedures and to exercise such other powers, as may be appropriate to carry out the provisions of this Act.

(9) In cases of neglect or refusal to obey a subpoena issued to any person, the circuit court of the county in which the investigations or the public hearings are taking place upon application by the board, or its representative, may issue an order requiring such person to appear before the board, and give testimony about the matter under investigation. A failure to obey such order may be punished by the court as contempt, and;

(10) Any subpoena, notice of hearing or other process or notice of the board issued under the provision of this Act shall be served in accordance with the Kentucky rules of civil procedure;

(11) All of the expenses of the board, including all necessary traveling and subsistence expenses incurred by the members or employes of the board under its orders, shall be allowed and paid on the presentation of itemized vouchers therefor approved by the commissioner of labor or by any individual he designates for that purpose and in accordance with established auditing and payment procedures.

Section 3. A new section of KRS Chapter 336 is created to read as follows:

Public employes shall have the right to:

(1) Self organization, to form, join, assist, or participate in, or to refrain from forming, joining, assisting, or participating, except as otherwise provided in this Act, in any employe organization of their own choosing.

(2) Engage in other concerted activities for the purpose of collective bargaining or other mutual aid and protection.

(3) Be represented by an employe organization, and

(4) Bargain collectively with their public employers to determine wages, hours and terms and conditions of employment and enter into collective bargaining agreements which shall provide, among other things, fair procedures to settle grievances which shall include final and binding arbitration.

Section 4. A new section of KRS Chapter 336 is created to read as follows:

(1) Public employers shall extend to an employe organization, certified or recognized as the exclusive representative pursuant to this Act, the right to represent exclusively the employes in the appropriate bargaining unit and the right to unchallenged and exclusive representation status.

(2) A public employer shall bargain collectively with an employe organization certified pursuant to the provisions of this Act.

Whenever a public employer is notified by the board that an employe organization has been certified as exclusive representative for a unit of its employes, such public employer shall designate an employer representative, and shall promptly notify the board and the employe organization of his identity and address. All communications concerned with collective relationships under this Act, from the employe organization or from the board, shall be addressed to the employer representative. The designated employer representative is hereby empowered to sign agreements resulting from collective bargaining on behalf of the public employer, but such agreements shall be subject to the procedures set forth in this Act.

(3) This Act does not abridge the recognition of or agreement with any employe organization which is in effect at the effective date of this Act, provided the agreement is for a term not exceeding three (3) years.

Section 5. A new section of KRS Chapter 336 is created to read as follows:

(1) Representatives designated or selected for the purposes of collective bargaining by the majority of the employes in a unit appropriate for such purposes or by the majority of the employes voting in an election conducted pursuant to Section 7 of this Act, shall be the exclusive representatives of all employes in the appropriated unit for the purposes of collective bargaining. Any individual employe shall have the right at any time to present grievances for adjustment without the intervention of the bargaining representative, as long as the adjustment is not inconsistent with the terms of the collective bargaining then in effect; provided that the bargaining representatives have been given opportunity to be present at such adjustment. Such adjustment or determination shall not be a precedent in other grievances, whether similar or dissimilar.

(2) The board, in accordance with the procedures established herein, shall decide in each case the unit appropriate for the purposes of collective bargaining.

Section 6. A new section of KRS Chapter 336 is created to read as follows:

(1) The board, in determining whether a unit of employes is an appropriate unit, shall consider among other relevant factors, such factors as the effects of over-fragmentization, community of interest, wages, hours and other working conditions of the employes involved, the history of collective bargaining, and the desires of the employes; provided, that a unit may be found to be the appropriate unit in a particular case, even though some other unit might also be appropriate, or might be more appropriate.

(2) In determining the appropriate bargaining unit, the board shall also:

(a) Not decide that any unit is appropriate if such unit includes both professional and non-professional employes, unless a majority of such professional employes vote for inclusion in such unit and unless a majority of such non-professional employes vote for inclusion in such unit.

(b) Not permit correction officers or guards at prisons or other institutions, or any individual employed as a guard to enforce against other employes rules to protect property of the employer or to protect the safety of persons on the employer's premises to be included in a unit with other public employes.

(c) Not permit supervisors as defined in this Act to be included in a unit with the employes they supervise.

Section 7. A new section of KRS Chapter 336 is created to read as follows:

(1) When a petition has been filed, in accordance with such regulation as is prescribed by the board:

(a) By any employe or group of employes or any individual or employe organization acting in their behalf alleging that thirty (30) percent of the employes in an appropriate unit (i) wish to be represented for collective bargaining by an exclusive representative, or (ii) assert that the designated exclusive representative is no longer the representative of the majority of employes in the unit;

(b) By the employer alleging that one or more employes organizations have presented to it a claim to be recognized as the exclusive representative of an appropriate unit. The board shall investigate such petition, and if it has reasonable cause to believe that question of representation exists, it shall provide for an appropriate hearing upon due notice to the parties. Notice of the hearing shall be posted in conspicuous places about the premises of the employer and served upon the existing exclusive representative, if any, at least ten (10) days prior to the date of the hearing. If the board finds upon the record of such hearing that such a question of representation exists, it shall direct an election and shall certify the results thereof. No one shall be permitted to vote by mail or proxy. The board may also certify an employe organization as an exclusive representative if it determines that a free and untrammelled election cannot be conducted because of the employer's unfair labor practices and that at one time the employe organization had the support of the majority of the employes in the unit.

(2) Only those employes organizations which have been designated by more than ten (10) percent of the employes in the unit found to be appropriate shall be placed on the ballot. Nothing in this section shall be construed to prohibit the waiving of hearings by stipulation for the purpose: of a consent election, in conformity with the rules and regulations of the board; of recognizing an employe organization as the exclusive employe organization when there is no dispute as to its majority status, in which event the board shall, upon request by the employe organization, certify such employe organization as the exclusive employe organization of the employes in the unit.

(3) Representation elections shall be conducted by secret ballot at such times and places selected by the board subject to the following:

(a) The board shall give no less than ten days' notice of the time and place of such election.

(b) The board shall establish rules and regulations concerning the conduct of any election including but not limited to regulations which would guarantee the secrecy of the ballot.

(c) A representative may not be certified unless it receives a majority of the valid ballots cast.

(d) Except as provided herein, the board shall include on the ballot a choice of "no representative."

(e) In an election where none of the choices on the ballot receives a majority, a run-off election shall be conducted within a maximum of thirty days, the ballot providing for a selection between the two choices or parties receiving the highest and the second highest number of ballots cast in the election.

(f) No election shall be conducted pursuant to this section in any appropriate bargaining unit within which in the preceding twelve-month period a board-conducted election shall have been held nor during the term of any lawful collective bargaining agreement between a public employer and an exclusive representative. This restriction shall not apply to that period of time covered by any collective bargaining agreement which exceeds three years. For the purposes of this section, extensions of agreements shall not affect the expiration date of the original agreement.

(2) Petitions for elections may be filed with the board: (a) not sooner than one hundred twenty (120) days nor later than ninety (90) days before the expiration date of any collective bargaining agreement; or (b) after six (6) months after the expiration date until such time as a new written agreement has been executed. For the purposes of this section, mere extensions of the expiration dates of agreements shall not affect the expiration date of the original agreement.

Section 8. A new section of KRS Chapter 336 is created to read as follows:

(1) All matters pertaining to wages, salaries, employe benefits, and other terms and conditions of employment shall be subject to collective bargaining between the public employer and the exclusive representative.

(2) Nothing in this section shall interfere with the right of the public employer: (a) to direct and supervise employes; (b) to discipline employes for just cause; (c) subject to contract seniority and tenure rights, to determine the adequacy of the work force and to lay off employes for lack of work or funds; (d) to maintain the efficiency of governmental operations. Nothing in this subsection shall be construed as preventing an employe from raising a legitimate complaint or filing a grievance based on the effects of such management decisions.

Section 9. A new section of KRS Chapter 336 is created to read as follows:

(1) Any collective bargaining agreement reached by the employer and the exclusive representative shall be immediately reduced to writing and executed by both parties.

(2) Said agreement, which shall contain a grievance procedure culminating with final and binding arbitration of unresolved grievances and disputed interpretations of agreements, shall be valid and enforced under its terms when entered into in accordance with the provisions of this Act. No publication thereof shall be required to make it effective. Suits for violation of agreements or the enforcement of an award by an arbitrator may be brought by the parties to such agreement in the circuit court for any county wherein a party resides or transacts business, or the Franklin circuit court.

(3) Said agreement shall contain a provision which requires the public employer to deduct the periodic dues, initiation fees and assessments or service fees uniformly required of members or employes represented by the exclusive representative upon presentation of a written deduction authorization; provided such authorization may be revocable by written notice to the public employer and the employe organization upon the will of the employe, at any anniversary date of the authorization. The deduction shall be made periodically as directed by the employe organization and remitted by the employer to the employe organization within thirty (30) days of the deduction.

(4) Until such time as a public employe organization has been certified as the exclusive representative, each public employer shall adopt policies or regulations which will provide for deductions from salaries of its employes or groups of employes, periodic dues or initiation fees and assessments of employe organization(s) upon written authorization by the member or group of employes, provided such authorization may be revocable by written notice to the public employer and the employe organization upon the will of the member.

Section 10. A new section of KRS Chapter 336 is created to read as follows:

In the event of a conflict in "an agreement between an employe organization and a public employer" and "the provisions of any law or ordinance pertaining to wages, hours, terms and conditions of employment, the provisions of the agreement shall prevail, provided that laws pertaining to workmen's compensation and the retirement of public employes shall prevail over conflicting provisions of agreements between employe organizations and public employers. The provisions of this Act shall prevail over any other conflicting statute or ordinance and further provide that nothing herein prohibits agreements establishing supplemental workmen's compensation and supplemental pension benefits.

Section 11. A new section of KRS Chapter 336 is created to read as follows:

(1) It shall be an unfair labor practice for a public employer to:

(a) Interfere with, restrain, or coerce employes in the exercise of the rights guaranteed in this Act;

(b) Initiate, create, dominate, interfere with the formation of administration of any employe organization, or contribute financial or other support to it; provided, that a public employer shall not be prohibited from permitting employes to confer with it during working hours or perform activities related to this Act without loss of time or pay;

(c) Discriminate in regard to hire or tenure of employment, or any term or conditions of employment on the basis of the exercise of rights guaranteed by this Act; provided that nothing in this Act or any other statute of this state shall preclude any employer from making and enforcing an agreement requiring as a condition of employment membership in an employe organization on or after the 30th day following the beginning of such employment or on the effective date of such agreement, whichever is the later;

(d) Discharge or otherwise discriminate against an employe because he has filed charges or given testimony under this Act;

(e) Refuse to bargain collectively with the exclusive representative of his employes or fail to submit to any required legislative body of the public employer for approval any provision of the agreement requiring legislative approval within fourteen (14) days after agreement is reached.

(2) It shall be an unfair labor practice for an employe organization, its agents, or representatives, or public employes to:

(a) Restrain or coerce (i) employes in the exercise of the rights guaranteed in this Act; provided, that this paragraph shall not impair the right of an employe organization to prescribe its own rules with respect to the acquisition or retention of membership therein; or (ii) an employer in the selection of his representative for the purpose of collective bargaining or the adjustment of grievances;

(b) Cause or attempt to cause an employer to violate Section 11(1) of this Act;

(c) Refuse to bargain collectively with a public employer, provided the employe organization has been certified as the exclusive representative of public employes in a bargaining unit;

(d) Fail to fairly represent all public employes in a bargaining unit.

(3) The determination by the board or any court that a public official or employe has committed any unfair labor practice prohibited by this section shall not in and of itself form the basis of any charge for the removal from office or recall of such public official or employe, but such determination may be introduced as evidence in support of such charge.

Section 12. A new section of KRS Chapter 336 is created to read as follows:

(1) Violation of Section 11 of this Act shall be deemed to be an unfair labor practice remediable by the board as provided in this section.

(2) If a charge is filed alleging that any person has engaged in or is engaging in any unfair labor practice, as defined in Section 11 of this Act, and it appears to the agent designated by the board for such purposes that formal proceedings in respect thereto should be instituted, he shall issue and cause to be served upon the charged party a formal complaint and a notice of hearing before the board or a member thereof, or before a designated agent or agency, at a place therein fixed, not less than ten days after the service of said complaint:

(a) Any such complaint may be amended by the board at any time prior to the issuance of an order based thereon; provided, that the charged party is not unfairly prejudiced thereby. The person so complained of shall be allowed to file an answer to the original or amended complaint. The board, the person making the charge, and the person charged shall be parties and shall have the right to appear or otherwise give testimony and subpoena witnesses at the place and time fixed in the notice of hearing. Any other interested person may be allowed upon motion to intervene in the said proceedings and to present testimony.

(b) The testimony taken by such member, agent, or agency or the board shall be reduced to writing and filed with the board; thereafter in discretion, the board, upon notice, may take further testimony or hear argument. If upon the preponderance of the testimony taken the board shall be of the opinion that any person named in the complaint has engaged in or is engaging in any such unfair labor practice, then the board shall state its findings of fact and shall issue and cause to be served on such person an order requiring that he cease and desist from these unfair labor practices, and take such affirmative action, including reinstatement of employes with or without back pay, as will effectuate the policies of this Act, provided, that where an order directs reinstatement of an employe, back pay may be required of the public employer or employe organizations, as the case may be, responsible for the discrimination suffered by him. Such order may further require such person to make reports from time to time showing the extent to which he has complied with the order.

(c) If upon the preponderance of the testimony taken the board shall not be of the opinion that the person named in the complaint has engaged in or is engaging in any such unfair labor practice, then it shall state it findings of fact and shall issue an order dismissing the said complaint. No notice of hearing shall be issued based upon any unfair labor practice occurring more than six (6) months prior to the filing of the charge with the board, unless the person aggrieved thereby was prevented from filing the charge by reason of service in the armed forces, in which event the six (6) months period shall be computed from the day of his discharge. No order of the board shall require the reinstatement of any individual as an employe or the payment to him of any back pay, if such individual was suspended or discharged for just cause. In case the evidence is presented before a member of the board, or before an examiner or examiners thereof, such member, or such examiner or examiners, as the case may be, shall issue and cause to be served on the parties to the proceeding a proposed decision, together with a recommended order, which shall be filed with the board, and if no exceptions are filed within twenty (20) days after service thereof, such recommended order shall become the order of the board and become effective as therein prescribed.

(d) If exceptions are filed to the proposed report, the board shall determine whether such exceptions raise substantial issues of fact or law, it may refuse to grant review, and the recommended order shall become effective as therein prescribed.

(3) Whenever a complaint alleges that a person has engaged in an unfair labor practice and that it will suffer substantial injury if it is not granted temporary relief, the board may petition the Franklin circuit court for appropriate injunctive relief, pending the final adjudication by the board with respect to such matter. Upon the filing of any such petition, the court shall cause notice thereof together with the time and place of hearing to be served upon the parties, and thereupon shall have jurisdiction to immediately conduct a hearing and grant such temporary relief or restraining order as it considers just and proper.

(4) Until the record in a case has been filed in a court, as hereinafter provided, the board may at any time upon reasonable notice and in such manner as it considers proper, modify or set aside, in whole or in part, any finding or order made or issued by it.

Section 13. A new section of KRS Chapter 336 is created to read as follows:

(1) The board or the complaining party shall have the power to petition the Franklin circuit court for the enforcement of such order and for appropriate temporary relief or restraining order, and the board shall certify and file in the court a transcript of the entire record in the proceeding, including the pleadings and testimony upon which said order was entered and the findings and order of the board. When the board petitions the court, the complaining party shall be permitted to intervene in the case as a matter of right. Upon such filing, the court shall cause notice thereof to be served upon such person and thereupon shall have jurisdiction of the proceeding and the question determined therein, and shall have power to grant such temporary relief or restraining order as it deems just and proper, and to immediately make and enter upon the pleadings, testimony, and proceedings set forth in such transcript a decree enforcing, modifying, and enforcing as so modified, or setting aside in whole or in part the order of the board.

(2) The findings of the board as to the facts, if supported by substantial evidence, shall be conclusive. If either party shall apply to the court for leave to adduce additional evidence and show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the hearing before the board, its member, agent, or agency, the court may order such additional evidence to be taken immediately before the board, its member, agent, or agency, and to be made a part of the transcript. The board may modify its findings as to the facts, or make new findings, by reason of additional evidence so taken and filed, and it shall file such modified or new findings, which, if supported by such evidence, shall be conclusive and shall file its recommendations if any, for the modification or setting aside of its original order.

(3) The jurisdiction of the Franklin circuit court shall be exclusive and its judgment and decree shall be final, except that the same shall be subject to review on questions of law as in civil cases.

(4) Any person aggrieved by any final order of the board granting or denying, in whole or in part, the relief sought may obtain a review of such order in the Franklin circuit court by filing in such court a written petition praying that the order of the board be modified or set aside. A copy of such petition shall be forthwith served upon the board, and thereupon the board shall file in the court a transcript of the entire record in the proceeding, certified by the board, including the pleadings and testimony upon which the order complained of was entered and the order of the board. Upon such filing, the court shall have exclusive jurisdiction to grant to the board such temporary relief or restraining order as it deems just and proper, and to immediately make and enter a decree enforcing, modifying and enforcing as so modified, or setting aside in whole or in part the order of the board, and the findings of the board as to the facts shall be conclusive.

(5) The commencement of proceedings under subsections (1) or (4) of this section shall not, unless specifically ordered by the court, operate as a stay of the board's order.

(6) Petitions filed under this Act shall be heard expeditiously by the circuit court to which presented and shall take precedent over all other civil matters except earlier matters of the same character.

Section 14. A new section of KRS Chapter 336 is created to read as follows:

The following procedures shall be followed in the resolution of disputes or negotiations between an employe organization and a public employer:

(a) Where a settlement procedure is provided in a collective bargaining agreement, such procedure shall prevail, or if such procedure does not terminate in voluntary, final and binding arbitration or does not otherwise result in a settlement, then the following procedure shall prevail:

(a) In the event that the parties are unable to reach agreement, any party may serve notice upon the board and the other parties to the dispute setting forth the names and addresses of the parties, the issues involved and the expiration date of the agreement if an agreement exists. Where an agreement exists the notice may be served not later than sixty (60) days before the expiration date, and the board shall be served with a copy of the agreement;

(b) The board shall intervene and investigate such disputes to determine whether the parties have engaged in collective bargaining;

(c) If an impasse exists, the board shall appoint a mediator to assist the parties;

(d) If the mediator advises the board that the parties are unable to reach agreement, or upon the expiration date of the agreement, if one exists, whichever occurs sooner, the board may in its discretion appoint a fact-finding panel of not more than three (3) members who have been selected by the parties in accordance with rules established by the board, from a list of qualified persons maintained by the board. The fact-finding panel shall in accordance with rules and procedures established by the board which shall include the regulation of costs and expenses of fact-finding, gather facts and make recommendations for the resolution of the matter;

(e) The fact-finding panel acting by a majority of its members, shall transmit its findings of fact and recommendations to the public employer and employe organization involved and to the board. Such findings of fact and recommendations shall be transmitted no later than thirty (30) days after the appointment of the fact-finding panel. The state shall pay one-half the costs of the fact-finding panel; the remaining one-half of the cost shall be divided equally between the parties.

(f) Not more than ten (10) days after the findings and recommendations shall have been sent, the parties shall notify the board and each other whether or not they accept the recommendations of the fact-finding panel and if they do not, the panel shall publicize its findings of fact and recommendations.

(g) If the parties are unable to reach agreement: within ten (10) days after the publication of the findings and recommendations from the fact-finding panel or if, where fact-finding has not been requested or ordered, mediation has failed to bring the parties into agreement or the collective bargaining agreement, if one exists, has expired, or thirty (30) days have elapsed since the board was notified that the parties cannot reach an agreement, then the matter shall be submitted to final and binding arbitration by an arbitrator selected by the parties. If the parties cannot agree upon an arbitrator within five (5) days, the board shall immediately appoint an arbitrator from a list of qualified persons maintained by the board.

(2) Nothing in this section shall be construed to prohibit the parties from voluntarily agreeing to submit any or all of the issues in dispute to final and binding arbitration. If such agreement is reached said arbitration shall supersede the settlement procedures set forth in this section. An agreement shall be enforceable in the same manner as is provided in Section 9(2).

(3) Nothing in this section shall be construed to prohibit a party from seeking enforcement of a collective bargaining agreement or an arbitrator's award as provided in Section 9(2).

(4) Allegations of unfair labor practices during the settlement procedures set forth in Section 14 shall receive priority by the board.

Section 15. A new section of KRS Chapter 336 is created to read as follows:

Formal charges, petitions, complaints, orders, testimony, fact-finding recommendations, and other proceedings instituted by the board under this Act shall be public records and available for inspection or copying subject to rules and regulations to be made by the board. All hearings on complaints, or petitions pursuant to this Act shall be open to the public.

Section 16. A new section of KRS Chapter 336 is created to read as follows:

This Act shall preempt without abrogating any existing collective bargaining rights of public employes all contrary local ordinances, executive order or legislation; provided, that any political subdivision may enact, through its appropriate legislative body, procedures which will effectuate within its jurisdiction all of the mechanisms, purposes, and intent provided herein. Nothing in this Act shall be construed as precluding subordinate governmental units from further extension of their rights. Such procedures shall be discussed before enactment within interested organizations involved, and the procedures shall be approved by the board as complying with this Act before being put into effect. Charges of departure from approved procedures may be brought before the board for remedy.

Section 17. A new section of KRS Chapter 336 is created to read as follows:

There is hereby created a council to be known as the Kentucky public employment citizens advisory council, the members of which shall be appointed by the governor to review developments regarding public sector employe relations matters and to make recommendations for continuing improvements in this area. Members shall serve without compensation and shall include public employer and employe organization representatives as well as others who are knowledgeable in public section employe relations matters.

Section 18. A new section of KRS Chapter 336 is created to read as follows:

Collective bargaining meetings between public employers and employe organizations shall be considered private.

Section 19. A new section of KRS Chapter 336 is created to read as follows:

If any provisions of this Act or the application of such provision to any person or circumstance shall be held invalid, the remainder of the Act, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

Section 20. A new section of KRS Chapter 336 is created to read as follows:

All provisions of this Act shall take effect September 1, 1976, except Sections 2 and 17 of this Act which shall take effect as provided in Section 55 of the Kentucky constitution.

Section 21. A new section of KRS Chapter 336 is created to read as follows:

There is appropriated from the general expenditure fund to the department of labor $245,000 in fiscal year 1976-77 and $275,000 in fiscal year 1977-78 to be used to create, staff, and maintain said Commonwealth of Kentucky employment relations board pursuant to this Act.

The Committee Amendment to **HB 300** is as follows:

Amend printed copy of House Bill 300 page 16, line 9, before the word "No", change (f) to (1.),

and on line 20, before the word "Petitions", change (2) to (2.),

and on page 28, line 15, before the word "Where", change "(a)" to "(1)".

Motions, Petitions and Communications

Representative Jones moved the adoption of the following Legislative Citation No. 8:

The House of Representatives of the Commonwealth of Kentucky hereby honors the City of Warsaw for having been selected an All Kentucky City for 1975 by the Kentucky Chamber of Commerce. This body commends the Chamber of Commerce and the Citizens of Warsaw for their efforts in attaining this honor. (Sponsored by Representative Jones)

Agreed.

Representative Jones moved the adoption of the following Legislative Citation No. 9:

The House of Representatives of the Commonwealth of Kentucky hereby honors the City of Carrollton for having been selected an All Kentucky City for 1975 by the Kentucky Chamber of Commerce. This body commends the Chamber of Commerce and the citizens of Carrollton for their efforts in attaining this honor. (Sponsored by Representative Jones)

Agreed.

Representative Fitzgerald filed Floor Amendment No. 1 to **HB 82.**

Representative B. Richardson filed Floor Amendment No. 1 to **HB 254.**

Representatives Beshear and B. Richardson filed Floor Amendment No. 2 to the Committee Substitute for **HB 254.**

Orders of the Day

HB 55 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title and placed upon its passage. Agreed by a majority of members elected.

Representative Benson moved that **HB 55** be passed.

On the roll call the vote was yeas 82-Ackerson, J. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blandford, Blume, Blythe, Boatwright, Brinkley, Brown, Bruce, Carpenter, Clapp, Clarke, Cooper, Craddock, Crupper, Cyrus, DeFalaise, Denham, Deskins, Donnermeyer, Doss, Dunn, Fitzgerald, Floyd, Foster, Givhan, Gray, Guenthner, Hancock, Holbrook, Hopkins, Hughes, Imes, Isler, Jones, Kenton, King, Kleier, LeMaster, Lindsay, Little, Mann, Mason, May, Maynard, McBride, McGill, Morris, Muncy, Nett, O'Brien, Overstreet, Pearl, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Robinson, Romines, Sale, Schmidt, Siemens, Stephens, Stewart, Tobin, J. Turner, R. Turner, Vincent, Wells, White, Wible, Wooden, Wright, Yates. Nays 8-B. Adams, W. Allen, Burnette, DeMarcus, Freeman, Hurst, McBee, Siler.

HB 55 was passed and the title agreed to.

Representative Benson moved that the vote by which **HB 55** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 72 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Denham moved that **HB 72** be passed.

On the roll call the vote was yeas 96-Ackerson, B. Adams, A. S. Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blandford, Blume, Blythe, Boatwright, Brinkley, Brown, Bruce, Burnette, Carpenter, Clapp, Clarke, Cooper, Craddock, Crupper, Cyrus, Dawahare, DeFalaise, DeMarcus, Denham, Deskins, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Floyd, Foster, Freeman, Gay, Givhan, Gray, Guenthner, Hancock, Hardwick, Holloway, Hopkins, Hughes, Hurst, Imes, Isler, Jones, Kenton, Kidd, King, Kleier, LeMaster, Lindsay, Little, Mann, Mason, May, Maynard, McBee, McGill, Morris, Muncy, Nett, O'Brien, Overstreet, Pearl, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Robinson, Romines, Sale, Schmidt, Siemens, Siler, Stephens, Stewart, Tobin, Thomas, J. Turner, R. Turner, Vincent, Wells, White, Wible, Wooden, Wright, Yates. Nays 0.

HB 72 was passed and the title agreed to.

Representative Denham moved that the vote by which **HB 72** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 141, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Schmidt moved the adoption of the Committee Amendment No. 1 to **HB 141.** Agreed.

Representative Schmidt moved that **HB 141** as amended be passed.

On the roll call the vote was yeas 96-Ackerson, B. Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blandford, Blume, Blythe, Boatwright, Brinkley, Brown, Bruce, Burnette, Carpenter, Clapp, Clarke, Craddock, Crupper, Cyrus, Dawahare, DeFalaise, DeMarcus, Denham, Deskins, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Floyd, Foster, Freeman, Gay, Givhan, Gray, Guenthner, Hancock, Hardwick, Holbrook, Holloway, Hopkins, Hughes, Hurst, Imes, Isler, Jones, Kenton, Kidd, King, Kleier, LeMaster, Lindsay, Little, Mann, Mason, May, Maynard, McBee, McBride, McGill, Morris, Muncy, Nett, O'Brien, Overstreet, Pearl, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Robinson, Romines, Sale, Schmidt, Siemens, Siler, Stephens, Stewart, Tobin, Thomas, J. Turner, R. Turner, Vincent, Wells, White, Wible, Wooden, Wright, Yates. Nays 0.

HB 141 as amended was passed and the title agreed to.

Representative Schmidt moved that the vote by which **HB 141** as amended was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 145 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon it passage. Agreed by a majority of members elected.

Representative Kleier moved that **HB 145** be passed.

On the roll call the vote was yeas 93-Ackerson, B. Adams, A. S. Adams, J. Allen, W. Allen, Arnold, Bennett, Benson, Beshear, Bevins, Blair, Blandford, Blume, Blythe, Boatwright, Brinkley, Brown, Bruce, Burnette, Carpenter, Clapp, Clarke, Cooper, Craddock, Crupper, Cyrus, Dawahare, DeFalaise, DeMarcus, Denham, Deskins, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Floyd, Foster, Freeman, Gay, Givhan, Gray, Guenthner, Hancock, Hardwick, Holbrook, Holloway, Hopkins, Hughes, Imes, Isler, Kenton, Kidd, King, Kleier, LeMaster, Lindsay, Little, Mann, Mason, May, Maynard, McBee, McBride, McGill, Morris, Muncy, Nett, O'Brien, Overstreet, Pearl, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Robinson, Romines, Sale, Schmidt, Siler, Stephens, Stewart, Tobin, Thomas, J. Turner, R. Turner, Vincent, White, Wible, Wooden, Wright, Yates. Nays 0.

HB 145 was passed and the title agreed to.

Representative Kleier moved that the vote by which **HB 145** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 219 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Fitzgerald moved that **HB 219** be passed.

On the roll call the vote was yeas 85-Ackerson, B. Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blandford, Blume, Boatwright, Brinkley, Brown, Burnette, Carpenter, Clapp, Clarke, Cooper, Craddock, Crupper, Cyrus, Dawahare, DeFalaise, DeMarcus, Denham, Deskins, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Floyd, Foster, Gay, Givhan, Gray, Hancock, Hardwick, Head, Holbrook, Hopkins, Isler, Kenton, Kidd, King, Kleier, LeMaster, Lindsay, Little, Mann, Mason, May, Maynard, McBee, McBride, McGill, Morris, Muncy, Nett, O'Brien, Overstreet, Pearl, Richards, B. Richardson, P. Richardson, Robinson, Romines, Sale, Siler, Stephens, Stewart, Tobin, Thomas, J. Turner, R. Turner, Vincent, Wells, White, Wible, Wooden, Wright, Yates. Nays 3-Guenthner, Imes, Jones.

HB 219 was passed and the title agreed to.

Representative Fitzgerald moved that the vote by which **HB 219** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Announcement

Representative Clarke announced a meeting of the Committee on Appropriations and Revenue to meet at 8:00 a.m., Room 305, February 4, 1976—his meeting to last until 9:30 a.m., at which time a joint hearing will be held in the Senate Chamber.

The Clerk announced the following members requested that their names be added as co-sponsors of Bills and Resolutions: Representative Vincent, **HB 418.**

The Clerk announced Representative Bendl requested that her name be removed as co-sponsor of **HB 384.**

Representative B. Adams filed Floor Amendment No. 1 to **HB 20.**

The Clerk announced a meeting of the Committee on Banking and Insurance for 10:00 a.m. to 12 noon, Room 307, February 9, 1976, to discuss **HB 227.**

Adjournment

Representative B. Richardson moved that the House adjourn until 2:00 p.m., Wednesday, February 4, 1976.

On the roll call the vote was yeas 78-Ackerson, A. S. Adams, J. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blandford, Blume, Blythe, Boatwright, Brinkley, Brown, Burnette, Carpenter, Clapp, Clarke, Cooper, Craddock, Crupper, Cyrus, Dawahare, DeFalaise, Denham, Dietz, Donnermeyer, Doss, Dunn, Floyd, Foster, Gay, Givhan, Hancock, Hardwick, Head, Holbrook, Holloway, Hughes, Isler, Kenton, Kidd, King, LeMaster, Lindsay, Little, Mason, May, Maynard, McBee, McBride, McGill, Morris, Muncy, Nett, O'Brien, Overstreet, Pearl, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Robinson, Sale, Schmidt, Siemens, Siler, Stephens, Stewart, Tobin, J. Turner, R. Turner, Wells, White, Wible, Wooden. Nays 10-W. Allen, Deskins, Fitzgerald, Gray, Hopkins, Jones, Mann, Priddy, Wright, Yates.

The motion to adjourn was adopted.

WEDNESDAY, FEBRUARY 4, 1976

TWENTY-THIRD LEGISLATIVE DAY

The House was called to order by Speaker Kenton.

Prayer by Reverend K. L. Moore, First Baptist Church, Frankfort.

The roll was called. All present except Representative Morgan.

Representative Isler moved that absent members be granted leave of absence in accordance with the prevailing rules of the House. Agreed.

Representative Hughes moved that the reading of the Journal of February 3, 1976, be dispensed with and the same approved. Agreed.

Senate Message

Announcing passage of **SB 110, HB 27.**

Introduction of Bills and Resolutions

HB 429, by Representative B. Richardson: AN ACT relating to workmen's compensation.

HB 430, by Representative B. Richardson: AN ACT relating to traffic regulation.

HB 431, by Representatives Wible and B. Richardson: AN ACT relating to the retirement systems for judges and court personnel.

HB 432, by Representatives Wible and B. Richardson: AN ACT relating to the Court of Appeals of Kentucky.

HB 433, by Representatives Wible and B. Richardson: AN ACT relating to the practice of law and attorneys at law.

HB 434, by Representatives Wible and B. Richardson: AN ACT relating to the unified court system.

HB 435, by Representatives Wible and B. Richardson: AN ACT relating to the Supreme Court of Kentucky.

HB 436, by Representative Maynard: AN ACT relating to the Fair Labor Standards Act.

HB 437, by Representatives Denham and Hancock: AN ACT relating to the establishment of a commission for the blind.

HB 438, by Representatives Wible and B. Richardson: AN ACT relating to election of judges.

HB 439, by Representatives Imes and Guenthner: AN ACT relating to employment of state personnel.

HB 440, by Representative Little: AN ACT relating to teacher retirement.

HB 441, by Representatives Bruce and Imes: AN ACT relating to retirement of state personnel.

HB 442, by Representative Nett: AN ACT relating to individual rights.

HB 443, by Representative Imes: AN ACT relating to trapping.

HCR 42, by Representative Tobin: A CONCURRENT RESOLUTION requesting the Department of Transportation, the Department of Commerce, and the Department of Public Information to place the city of Guston, in Meade County, on the maps of Kentucky, and further requesting the Department of Public Information to inform all issuers of private maps to place Guston, in Meade County, on the maps of Kentucky issued by them.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **HB 420, HB 425, HB 426, SB 91, SB 99.**

Banking and Insurance: **HB 422, SB 102.**

Counties and Special Districts: **HB 423, HB 424.**

Elections and Constitutional Amendments: **HB 417.**

Health and Welfare: **HB 428.**

Judiciary-Statutes: **HB 419.**

Labor and Industry: **HB 418.**

State Government: **HB 427, SB 98, HB 421.**

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Appropriations and Revenue: **HB 210, HB 255, HB 280, HB 374.**

Cities: **HB 377.**

Business Organizations and Professions: **SB 68.**

Health and Welfare: **HB 343.**

Highways and Traffic Safety: **HB 287.**

Judiciary-Statutes: **HB 245.**

State Government: **HB 336, HCR 37.**

Report of Committees

The Committee on Appropriations and Revenue reported **HB 8,** with Committee Substitute attached thereto, and **HB 168,** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 8, AN ACT relating to bills and pre-filed bills.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 6 is created to read as follows:

(1) Any bill introduced which may have an effect on state or local revenues, either gain or loss, or which may cause the expenditure of state or local funds, shall be referred to the Legislative Research Commission for fiscal analysis.

(2) The Legislative Research Commission shall determine the probable fiscal effects of such bill, including the costs of administering any program, if possible, and report its findings to the chief clerk of the house of origin within seven days. The Executive Department for Finance and Administration and the Department of Revenue shall determine, or assist in the determination of, the fiscal effects of such bill at the request of the Legislative Research Commission.

(3) The chief clerk of the house of origin shall cause to have attached to the bill a summary of its fiscal effects, including the dollar amount of revenue gain or loss, or expense, if determinable, the frequency of effect and the governmental unit that will bear the incidence of the effect.

(4) Bills pre-filed with the Legislative Research Commission shall have their fiscal effects, if any, determined as soon as practicable after pre-filing. A summary of the fiscal effects shall be attached to the pre-filed bill.

Section 2. Whereas, legislation proposed in the 1976 Regular Session of the General Assembly cannot be adequately evaluated without knowledge of its fiscal effects; an emergency is declared to exist, and this Act shall become effective upon its passage and approval by the Governor.

The Committee Substitute for **HB 8** is as follows:

HB 8, AN ACT relating to bills and pre-filed bills.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 6 IS CREATED TO READ AS FOLLOWS:

(1) Any bill introduced, or amendment to such bill proposed in either the House or Senate, which may have an effect on state or local revenues, either gain or loss, or which may cause the expenditure of state or local funds, shall be referred to the Legislative Research Commission for fiscal analysis.

(2) The Legislative Research Commission shall determine the probable fiscal effects of such bill or proposed amendment, including the costs of administering any program, if possible, and report its findings to the chief clerk of the house of origin. Findings on fiscal effects of bills shall be reported within seven days. Findings on fiscal effects of proposed amendments shall be reported within two days. The Executive Department for Finance and Administration and the Department of Revenue shall determine, or assist in the determination of, the fiscal effects of such bill at the request of the Legislative Research Commission.

(3) The chief clerk of the house of origin shall cause to have attached to the bill or proposed amendment a summary of its fiscal effects, including the dollar amount of revenue gain or loss, or expense, if determinable, the frequency of effect and the level of government that will bear the incidence of the effect.

(4) Bills pre-filed with the Legislative Research Commission shall have their fiscal effects, if any, determined as soon as practicable after pre-filing. A summary of the fiscal effects shall be attached to the pre-filed bill.

HB 168, AN ACT relating to elementary and secondary education.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 157 is created to read as follows:

(1) No city, county or state taxes may be appropriated to:

(a) Purchase any vehicle to transport public school children past a school of appropriate grade level;

(b) Pay the salaries of bus drivers for vehicles used to transport public school children past a school of the appropriate grade level;

(c) Purchase gasoline, diesel fuel, oil or maintenance of said vehicles;

(d) Pay salaries of any security guard, monitors or other personnel to ride said vehicles.

(2) This Act pertains only to county school districts containing a city of the first class.

The Committee Substitute for **HB 168** is as follows:

HB 168, AN ACT relating to elementary and secondary education.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 157 IS CREATED TO READ AS FOLLOWS:

(1) No city, county or state taxes may be appropriated to pay for the transportation of public school children for the purpose of achieving racial balance beyond the nearest school of appropriate grade level within the local school district.

(2) This Act does not prevent or prohibit county or state owned vehicles from transporting students from their respective schools to and from sports events, band concerts, or field trips as may be decided by appropriate school officials.

(3) Vocational schools, special educational and independent school districts shall be exempt from this Act.

The Committee on Business Organizations and Professions reported **HB 17** and **HB 29** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 17, AN ACT relating to the excise tax on malt beverages.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 243.720 is amended to read as follows:

(1) There is levied upon the use, sale or distribution by sale or gift of distilled spirits a tax of one dollar and ninety-two cents ($1.92) on each wine gallon of distilled spirits, and a proportional rate per gallon on all distilled spirits used, sold or distributed in any container of more or less than one (1) gallon, but the rate of the excise tax on spirits in retail containers of one-half (1/2) pint shall be twelve cents (12¢).

(2) There is levied upon the use, sale or distribution by sale or gift of wine, a tax of fifty cents (50¢) on each gallon of wine, and a proportional rate per gallon on the wine used, sold or distributed in any container of more or less than one (1) gallon, but in no event shall the tax be less than four cents (4¢) on the sale or distribution of any retail container of wine.

(3)*(a)* There is levied upon the sale or distribution by sale or gift of malt beverages an excise tax of two dollars and fifty cents ($2.50) on each barrel of thirty-one (31) gallons and a proportional rate per gallon on malt beverages sold or distributed in any container of more or less than thirty-one (31) gallons.

(b) Each brewer producing malt beverages in this state shall be entitled to a credit of fifty percent (50%) of the tax levied on each barrel of malt beverages sold in this state, up to 200,000 barrels per annum.

(4) This section shall not apply to:

(a) Wine manufactured, sold, given away or distributed and used solely for sacramental purposes; or

(b) Distilled spirits and wine purchased by holders of special licenses provided for in KRS 243.320 and 243.330 and purchased and used in the manner authorized by those licenses.

HB 29, AN ACT relating to certified public accountants and public accountants.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 325.230 is amended to read as follows:

(1) There is hereby created a state board of accountancy [in and for the state of Kentucky]. The board shall consist of *seven (7)* [five (5)] members, appointed by the governor. Whenever an appointment is to be made the Kentucky society of certified public accountants shall submit to the governor the names of three (3) persons for each vacancy to be filled. All persons recommended *shall* [must] be qualified for membership on the board, and the governor shall appoint one (1) of the three (3) *recommended.* Members of the board shall be citizens of the United States and residents of this state who hold *permits to practice* [certified public accountant certificates] issued under *the provisions of this chapter* [the laws of this state and who are in active practice as certified public accountants]. *Of the new members appointed to the board, as provided by this Act, one (1) member shall be appointed for a term of one (1) year and one (1) member shall be appointed for a term of four (4) years from the effective date of this Act.* [The members of the board first to be

appointed shall hold office, one (1) for one (1) year, one (1) for two (2) years, and one (1) for three (3) years from the effective date of KRS 325.220 to 325.440, the term of each to be designated by the governor. On July 1, 1968, two (2) additional members shall be appointed, one (1) for a one (1) year term and one (1) for a two (2) year term.] Succeeding appointments to the board shall be for a term of *four (4)* [three (3)] years. Vacancies occurring during a term shall be filled by appointment for the unexpired term. Upon the expiration of his term of office a member shall continue to serve until his successor shall have been appointed and shall have qualified. The governor shall remove from the board any member whose permit to practice is not renewed or which has become void, revoked or suspended, and may, after hearing, remove any member of the board for neglect of duty or other just cause.

(2) Each member of the board shall be paid *fifty dollars ($50)* [thirty-five dollars ($35.00)] for each day spent in the discharge of his official duties and shall be reimbursed for his actual and necessary expenses therein incurred.

Section 2. KRS 325.240 is amended to read as follows:

The board shall elect annually a president, a secretary and a treasurer from its members. The office of secretary and treasurer may be held by the same individual. The board may adopt, and amend from time to time, regulations, *in accordance with the provisions of KRS Chapter 13,* for the orderly conduct of its affairs and for the administration of KRS 325.220 to 325.440. The board may also promulgate, and amend from time to time, rules of professional conduct appropriate to establish and maintain a high standard of integrity and dignity in the profession of public accounting. A majority of the board shall constitute a quorum for the transaction of business. The board shall have a seal which shall be judicially noticed. The board shall keep records of its proceedings, and in any proceeding in court, civil or criminal, arising out of or founded upon any provision of KRS 325.220 to 325.440, copies of said records certified as correct under the seal of the board shall be admissible in evidence as tending to prove the content of said records. The board shall have printed and published for public distribution, in September of each year, an annual register which shall contain the names, arranged alphabetically by classifications, of all individuals and partnerships holding permits to practice under KRS 325.220 to 325.440; the names of the members of the board; and such other matters as may be deemed proper by the board. Copies of said registers shall be mailed to each registered practitioner. The board may employ clerks and arrange for assistance in the performance of its duties.

Section 3. KRS 325.261 is amended to read as follows:

The certificate of "certified public accountant" shall be granted by the board to any person:

(1) Who is a resident of this state or who has a place of business or is employed therein, *at the time of admission to the examination, and has met the requirements established by the board,* and

(2) Who has attained the age of eighteen (18) years, and who is of good moral character, and

(3) Who possesses the educational and experience requirements below:

(a) A baccalaureate degree conferred by a college or university recognized by the board with a major or concentration program in accounting or its equivalent, and two (2) years of public accounting experience of a quality satisfactory to the board, including participation in the examination of financial statements for third-party reliance, in the employ of a public accountant as defined in KRS 325.220 or a certified public accountant of any state, or *such other experience or employment as the board in its discretion may regard as substantially equivalent thereto, or*

(b) A master's degree in accounting or business administration conferred by a college or university recognized by the board, with the equivalent of a major or concentration program in accounting at either the graduate or undergraduate level, and one (1) year of public accounting experience of a quality satisfactory to the board, including participation in the examination of financial statements for third-party reliance, in the employ of a public accountant as defined in KRS 325.220 or a certified public accountant of any state, or *such other experience or employment as the board in its discretion may regard as substantially equivalent thereto, or*

(c) *Until July 1, 1979 a* [A] baccalaureate degree conferred by a college or university recognized by the board, and three (3) years of public accounting experience of a quality satisfactory to the board, including participation in the examination of financial statements for third-party reliance, in the employ of a public accountant as defined in KRS 325.220 or a certified public accountant of any state, or

(d) Until six (6) years after July 1, 1968, a graduate of a high school and six (6) years of public accounting experience of a quality satisfactory to the board, including the participation in the examination of financial statements for third-party reliance, in the employ of a public accountant as defined in KRS 325.220, or a certified public accountant of any state, or *such other experience or employment as the board in its discretion may regard as substantially equivalent thereto, or*

(e) Who holds a permit to practice as a public accountant as defined in KRS 325.220, and

(f) The experience requirement of paragraph (a) or (b) of this subsection may be satisfied by four (4) years' experience as a field audit agent in the internal revenue service of which two (2) years is at the journeyman level (presently GS-11 or its future equivalent) in auditing financial statements and supporting materials of three (3) or more distinct lines of commercial or industrial businesses to determine the reliability and fairness of the financial reporting and compliance with generally accepted principles and applicable laws and government regulations. The board shall be the sole and final judge of the qualification of experience under this section.

(g) The experience requirement of paragraph (c) of this subsection may be satisfied by five (5) years' experience as a field audit agent of the internal revenue service of which three (3) years is at the journeyman level (presently GS-11 or its future equivalent) in auditing financial statements and supporting material of three (3) or more distinct lines of commercial or industrial businesses to determine the reliability and fairness of the financial reporting and compliance with generally accepted accounting principles and applicable laws and government regulations. The board shall be the sole and final judge of the qualification of experience under this section.

(4) Who shall have successfully passed a written examination in accounting and auditing, and in such other related subjects as the board may deem advisable.

(5) Application for a certificate of certified public accountant shall be made on a form prescribed by the board. The board may set a fee for the issuance of a certificate not to exceed $25.00.

Section 4. KRS 325.265 is amended to read as follows:

(1) Any person shall be eligible for admission to the certified public accountant examination who meets the qualifications set forth in subsections (1) and (2) of KRS 325.261, and

(a) Who meets the educational requirements only of subsections (3) (a) or (b) of KRS 325.261, or

(b) Who meets both the educational and experience requirements provided in subsections (3) (c) or (d) of KRS 325.261 before the date of application, or

(c) Who holds a permit to practice as a public accountant as defined in KRS 325.220.

(d) An applicant who has met the requirements for admission to the examination and who has met the terms and conditions of KRS 325.270(3) shall be eligible to continue sitting for the examination until his application has been filed away by the board.

(2) A candidate for the certificate of certified public accountant who has successfully completed the examination prior to completion of his qualifying experience as permitted under subsection (1) (a) of this section is not a certified public accountant and shall not designate himself as such unless and until he has the requisite experience and has received his certificate as a certified public accountant.

[(3) Candidates who meet the eligibility standards in force prior to July 1, 1968, but who do not meet the eligibility standards of chapter 143 of the Acts of 1968, shall be given two (2) years from July 1, 1968, in which to complete their requirements, and an additional year in which to make application.]

Section 5. KRS 325.270 is amended to read as follows:

(1) Examinations provided for in KRS 325.220 to 325.440 shall be held by the board as often as may be necessary in the opinion of the board, but not less frequently than once each year.

(2) The board may by regulation provide for granting a credit to a candidate for his satisfactory completion of a written examination in any *two (2)* [one] or more of the subjects specified in subsection (4) of KRS 325.261, *or the accounting practice portion of the examination alone,* given by the licensing authority in any other state; Provided That when he took such examination in such other state he met all the requirements for admission to the examination under KRS 325.265 except for the requirement as to residence.

(3) The board may by regulation prescribe the terms and conditions under which a candidate who passes the examination in *two (2)* [one (1)] or more of the subjects indicated in subsection (4) of KRS 325.261, *or the accounting practice portion of the examination alone,* may be re-examined in only the remaining subjects, with credit for the subjects previously passed. It may also provide by regulation for a reasonable waiting period for a candidate's re-examination in a subject he has failed. Subject to the foregoing and such other regulations as the board may adopt governing re-examinations, a candidate shall be entitled to any number of re-examinations.

(4) The board shall charge each candidate a fee not to exceed *one hundred dollars ($100)* [fifty dollars ($50.00)] for the initial examination. This fee shall be payable by the candidate at the time prescribed by regulation of the board. Should the candidate fail to pass the examination, re-examination will be given the same candidate for an additional fee not to exceed *twenty dollars ($20)* [twelve dollars and fifty cents ($12.50)] for each subject *or part thereof* in which the candidate is examined.

Section 6. KRS 325.300 is amended to read as follows:

(1) A partnership engaged in this state in the practice of public accounting may register with the board as a partnership of certified public accountants provided it meets all of the following requirements:

(a) [(1)] At least one (1) general partner thereof must be a certified public accountant of this state in good standing, and

(b) [(2)] Each *resident manager in charge of an office of the partnership in this state and each* partner thereof personally engaged within this state in the practice of public accounting as a member thereof must be a certified public accountant of this state in good standing, and

(c) [(3)] Each partner thereof must be a certified public accountant of some state in good standing. [, and]

(2) A corporation organized for the practice of public accounting may register with the board as a corporation of certified public accountants, provided it meets the following requirements:

(a) The sole purpose and business of the corporation shall be to furnish to the public services not inconsistent with this Act and the regulations of the board, provided that the corporation invests its funds in a manner not incompatible with the practice of public accounting.

(b) Each shareholder of the corporation shall be a certified public accountant of some state in good standing and shall be principally employed by the corporation or actively engaged in its business. No other person shall have any interest in the stock of the corporation. The principal officer of the corporation and any officer or director having authority over the practice of public accounting by the corporation shall be a certified public accountant of some state in good standing.

(c) At least one shareholder of the corporation shall be a certified public accountant of this state in good standing.

(d) Each resident manager in charge of an office of the corporation in this state and each shareholder or director personally engaged within this state in the practice of public accounting shall be a certified public accountant of this state in good standing.

(e) In order to facilitate compliance with the provisions of this section relating to the ownership of stock, there shall be a written agreement binding the corporation or the qualified shareholders to purchase any shares offered for sale by, or not under the ownership or effective control of, a qualified shareholder and binding any holder not a qualified shareholder to sell such shares to the corporation or the qualified shareholders. The agreement shall be noted on each certificate of corporate stock. The corporation may purchase any amount of its stock for this purpose, notwithstanding any impairment of capital, so long as one share remains outstanding.

(f) The corporation shall be in compliance with such other regulations pertaining to corporations practicing public acounting in this state as the board may prescribe.

(3) [(4) Each resident manager in charge of an office of the firm in this state must be a certified public accountant of this state in good standing.] Application for [such] registration *as a partnership or corporation shall* [must] be made upon the affidavit of a general partner *or shareholder* [of such partnership] who is a certified public accountant of this state in good standing. The board shall in each case determine whether the applicant [partnership] is eligible for registration. A partnership *or corporation* which is so registered and holds a permit issued under KRS 325.330 may use the words "certified public accountants" or the abbreviation "CPA's" in connection with its partnership *or corporate* name. Notification shall be given the board, within one (1) month, after the admission to or withdrawal of a partner *or shareholder personally engaged in the practice of public accounting in this state* from any partnership *or corporation* so registered.

Section 7. KRS 325.320 is amended to read as follows:

(1) A partnership engaged in this state in the practice of public accounting may register with the board as a partnership of public accountants provided it meets all of the following requirements:

(a) [(1)] At least one (1) general partner thereof must be a certified public accountant or a public accountant of this state in good standing, and

(b) [(2)] Each *resident manager in charge and each* partner thereof personally engaged within this state and in the practice of public accounting as a member thereof must be a certified public accountant or a public accountant of this state in good standing, and

(c) Each partner thereof shall be a certified public accountant, or a public accountant of this state, in good standing.

(2) A corporation organized for the practice of public accounting may register with the board as a corporation of public accountants, provided it meets the following requirements:

(a) The sole purpose and business of the corporation shall be to furnish to the public services not inconsistent with this Act and the regulations of the board, provided that the corporation invests its funds in a manner not incompatible with the practice of public accounting.

(b) Each shareholder of the corporation shall be a certified public accountant or a public accountant of this state in good standing and shall be principally employed by the corporation or actively engaged in its business. No other person shall have any interest in the stock of the corporation. The principal officer of the corporation and any officer or director having authority over the practice of public accounting by the corporation shall be a certified public accountant or a public accountant of this state in good standing.

(c) At least one shareholder of the corporation shall be a certified public accountant or a public accountant of this state in good standing.

(d) Each resident manager in charge of an office of the corporation in this state and each shareholder or director personally engaged within this state in the practice of public accounting shall be a certified public accountant or a public accountant of this state in good standing.

(e) In order to facilitate compliance with the provisions of this section relating to the ownership of stock, there shall be a written agreement binding the corporation or the qualified shareholders to purchase any shares offered for sale by, or not under the ownership or effective control of, a qualified shareholder and binding any holder not a qualified shareholder to sell such shares to the corporation or the qualified shareholders. The agreement shall be noted on each certificate of corporate stock. The corporation may purchase any amount of its stock for this purpose, notwithstanding any impairment of capital, so long as one share remains outstanding.

(f) The corporation shall be in compliance with such other regulations pertaining to corporations practicing public acounting in this state as the board may prescribe.

(3) [Each resident manager in charge of an office of a firm in this state must be a certified public accountant or a public accountant of this state in good standing.] Application for [such] registration *as a partnership or corporation shall* [must] be made upon the affidavit of a general partner *or shareholder* [of such partnership] who holds a permit to practice in this state as a certified public accountant or as a public accountant. The board shall in each case determine whether the applicant [partnership] is eligible for registration. A partnership *or corporation* which is so registered and which holds a [partnership] permit issued under KRS 325.330 may use the words "public accountants" in connection with its partnership *or corporate* name. Notification shall be given the board, within one (1) month, after the admission to or withdrawal of a partner *or shareholder personally engaged in the practice of public accounting in this state* from any partnership *or corporation* so registered.

Section 8. KRS 325.321 is created to read as follows:

(1) Each office established or maintained in this state for the practice of public accounting in this state by a certified public accountant, or partnership or corporation of certified public accountants, or by a public accountant or a partnership or corporation of public accountants, shall register annually with the board, but no fee shall be charged for such registration.

(2) Each such office shall be managed and supervised on a direct and continuing basis by a partner, shareholder, or a staff employee holding a permit issued under KRS 325.330, which is in full force and effect. The title or designation "certified public accountant," "public accountant," or the abbreviation "CPA" shall not be used in connection with such office unless such manager is the holder of a permit to practice issued under KRS 325.330 which has not been revoked or suspended. *The Board shall by regulation, in accordance with the provisions of KRS Chapter 13, precribe the procedure to be followed in effecting such registrations.*

Section 9. KRS 325.330 is amended to read as follows:

Permits to engage in the practice of public accounting in this state shall be issued by the board [to holders of a certificate as "certified public accountant" issued under KRS 325.261 to 325.290 and] to individuals, [and] partnerships *and corporations qualifying under KRS 325.261 to 325.321* [registered under KRS 325.280 and 325.320,] after the payment by each such certificate holder, individual, [or] partnership *or corporation* of an annual permit fee to be fixed by the board not to exceed *fifty dollars ($50)* [thirty dollars ($30.00)]. All permits shall expire on the first day of July of each year, but may, annually, be renewed for a period of one (1) year by *permit* [certificate] holders [and registrants] in good standing upon the payment of a fee for renewal as herein provided. The renewal fee is due on or before the expiration date of the holder's permit, but failure to renew a permit before expiration thereof, except as provided in subsection (10) of KRS 325.340, shall not deprive a *permit* [certificate] holder [or registrant] of the right to renewal; in such cases a *permit* [certificate] holder [or registrant] in good standing may renew his permit by payment of any and all annual fees unpaid by him since the expiration of his permit and by payment of a penalty of ten dollars ($10.00) in addition thereto.

Section 10. KRS 325.340 is amended to read as follows:

After notice and hearing as provided in KRS 325.360, the board may revoke or suspend any certificate of a certified public accountant issued under this chapter or any registration of a public accountant granted under KRS 325.310, or may revoke, suspend or refuse to renew any permit issued under KRS 325.330, or may censure the holder of any such permit, for any one (1) or any combination of the following causes:

(1) Fraud or deceit in obtaining a certificate as certified public accountant, or in obtaining registration under KRS 325.220 to 325.440, or in obtaining a permit to practice public accounting under KRS 325.220 to 325.440.

(2) Dishonesty, fraud or negligence in the practice of public accounting.

(3) Violation of any of the provisions of KRS 325.380.

(4) Violation of a rule of professional conduct promulgated by the board under the authority granted by chapter 143 of the Acts of 1968.

(5) Conviction of a felony under the laws of any state or of the United States.

(6) Conviction of any crime, an essential element of which is dishonesty or fraud, under the law of any state *or* of the United States.

(7) Cancellation, revocation, suspension, or refusal to renew the authority to practice as a certified public accountant or a public accountant in any state.

(8) Suspension or revocation of the right to practice before any state or federal agency.

(9) Failure to become a citizen of the United States within six (6) years by any person not a citizen of the United States when he received a certificate as certified public accountant under KRS 325.220 to 325.440.

(10) Failure of a certificate holder or registrant to obtain an annual permit to practice as required under KRS 325.330, (a) within three (3) years from the expiration date of the permit to practice last obtained or renewed by said certificate holder or registrant, or (b) within three (3) years of the date upon which the certificate holder or registrant was granted his certificate or registration, if no permit was ever issued to such registrant, provided, however, that no action affecting a certificate holder or a registrant shall be taken by the board under this subsection until it shall appear that such certificate holder or registrant failed to renew his permit for the year ending July 1, 1953, on or before that date, or failed to renew his permit for a year or years ending after July 1, 1953.

(11) Conduct discreditable to the accounting profession.

Section 11. KRS 325.350 is amended to read as follows:

(1) After notice and hearing as provided in KRS 325.360 the board shall revoke the registration and permit to practice of a partnership *or corporation* if at any time it does not have all the qualifications prescribed by the section of KRS 325.220 to 325.440 under which it qualified for registration.

(2) After notice and hearing as provided in KRS 325.360 the board may revoke or suspend the registration or may revoke, suspend or refuse to renew the permit to practice of a partnership *or corporation* or may censure the holder of any such permit for any of the causes enumerated in KRS 325.340, and for the following additional causes:

(a) The revocation or suspension of the certificate or registration or the revocation or suspension or refusal to renew the permit to practice of any partner *or shareholder.*

(b) The cancellation, revocation, suspension or refusal to renew the authority of the partnership *or corporation* or any partner *or shareholder* thereof to practice public accounting in any other state *or corporation.*

Section 12. KRS 325.360 is amended to read as follows:

(1) The board may initiate proceedings under KRS 325.220 to 325.440 either on its own motion or on the complaint of any person.

(2) A written notice stating with reasonable particularity the nature of the charge and such acts of professional misconduct as are complained of against the accused and the time and place of the hearing before the board on such charges shall be served on the accused not less than thirty (30) days prior to the date of the hearing either personally or by mailing a copy thereof by certified mail, return receipt requested or by registered mail to the address of the accused last known to the board.

(3) If, after having been served with the notice of hearing as provided for herein, the accused fails to appear at said hearing, the board may hear evidence against him and may enter such order as shall be justified by the evidence, which order shall be final unless he petitions for a review thereof as provided herein: Provided, however, That within thirty (30) days from the date of any order, upon a showing of good cause for failing to appear, the board may reopen said proceedings and may permit the accused to submit evidence in his behalf.

(4) At any hearing the accused may appear in person or by counsel, produce evidence and witnesses on his own behalf, cross-examine witnesses, and examine such evidence and documents as may be produced against him. The accused shall be entitled, on application to the board, to the issuance of subpoenas to compel the attendance of witnesses on his behalf.

(5) The board, or any member thereof, may issue subpoenas to compel the attendance of witnesses and the production of documents, and may administer oaths, take testimony, hear proof and receive exhibits in evidence in connection with or at the hearing under KRS 325.220 to 325.440. In case of disobedience to a subpoena the board may invoke the aid of the Franklin Circuit Court. Any order or subpoena of such court requiring the attendance and testimony of witnesses and the production of documentary evidence may be enforced and shall be valid anywhere in this state.

(6) The board shall not be bound by technical rules of evidence.

(7) A stenographic record of the hearing shall be kept and a transcript thereof filed with the board.

(8) At all hearings the attorney general of this state, or one (1) of his assistants designated by him shall appear and represent the board.

(9) The decision of the board shall be by majority vote thereof.

(10) Any person adversely affected by any order of the board may obtain a review thereof by filing a written petition for review with the Franklin Circuit Court within *thirty (30)* [sixty (60)] days after the entry of said order. The petition shall state the grounds upon which the review is asked and shall pray that the order of the board be modified or set aside in whole or in part. A copy of such petition shall be forthwith served upon any member of the board and thereupon the board shall certify and file in the court a transcript of the record upon which the order complained of was entered. *No new or additional evidence shall be introduced in the Franklin Circuit Court except as to fraud or misconduct affecting the outcome of the case, but the court shall otherwise hear the case upon the record as attested by the executive secretary of the accountancy board, and shall in all respects dispose of the appeal in a summary manner. Its review shall be limited to determining whether or not:*

(a) the board acted without or in excess of its power;

(b) the order appealed from was procured by fraud or misconduct;

(c) substantial evidence supports the order appealed from;

(d) the board's decision is supported by the law. [The case shall then be tried de novo on the record but the parties shall be permitted to file briefs.] The court may affirm, modify or set aside the board's order in whole or in part, or may remand the case to the board for further evidence, and may in its discretion, stay the effect of the board's order pending its determination of the case. The court's order shall have the force and effect of a decree in equity and may be appealed [from] to the Court of Appeals.

Section 13. KRS 325.380 is amended to read as follows:

(1) No person shall assume or use the title or designation "certified public accountant" or the abbreviation "CPA" or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that such person is a certified public accountant, unless such person has received a certificate as a certified public accountant under this chapter and holds a permit issued under KRS 325.330 which has not been revoked or suspended *and all offices of such person in this state for the practice of public accounting are maintained and registered as required under KRS 325.321.*

(2) No partnership *or corporation* shall assume or use the title or designation "certified public accountants" or the abbreviation "CPA's" or any other title, designation, words, letters, abbreviation, sign, card or device tending to indicate that such partnership *or corporation* is composed of certified public accountants unless such partnership *or corporation* is registered as a partnership *or corporation* of certified public accountants under KRS 325.300*,* [and] holds a permit issued under KRS 325.330 which has not been revoked or suspended *and all offices of such partnerships or corporation in this state for the practice of public accounting are maintained and registered as required under KRS 325.321.*

(3) No individual shall assume or use the title or designation "public accountant" or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that such person is a public accountant, unless such person is registered as a public accountant under KRS 325.310 and holds a permit issued under KRS 325.330 which has not been revoked or suspended *and all offices of such person in this state for the practice of public accounting are maintained and registered as required under KRS 325.321*, or unless such person has received a certificate as a certified public accountant under this chapter and holds a permit issued under KRS 325.330 which has not been revoked or suspended *and all offices of such person in this state for the practice of public accounting are maintained and registered as required under KRS 325.321.*

(4) No partnership *or corporation* shall assume or use the title or designation "public accountants" or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that such partnership *or corporation* is composed of public accountants, unless such partnership *or corporation* is registered as a partnership *or corporation* of public accountants under KRS 325.320 or as a partnership *or corporation* of certified public accountants under KRS 325.300 and holds a permit issued under KRS 325.330 which has not been revoked or suspended *and all offices of such partnership or corporation in this state for the practice of public accounting are maintained and registered as required under KRS 325.321.*

(5) No individuals, partnership or corporation shall assume or use the title or designation "certified accountant," "chartered accountant," "enrolled accountant," "licensed accountant," "registered accountant," *"accredited auditor," "accounting practitioner," "accredited accountant," "expert accountant," "expert auditor," "certified auditor,"* or any other title or designation likely to be confused with "certified public accountant" and "public accountant" or any of the abbreviations "CA," *"AP,"* "PA," "EA," "RA," [or] "LA," *or "AA"* or similar abbreviations likely to be confused with "CPA."

(6) No person shall sign or affix his name or any trade or assumed name used by him in his profession or business to any opinion or certificate attesting in any way to the reliability of any representation or estimate in regard to any person or organization embracing (a) financial information or (b) facts respecting compliance with conditions established by law or contract, including but not limited to statutes, ordinances, regulations,

grants, loans, and appropriations, together with any wording accompanying or contained in such opinion or certificate, which indicates (i) that he is an accountant or auditor, or (ii) that he has expert knowledge in accounting or auditing, [No individual shall affix his signature, with any wording indicating that he is an accountant or auditor, or with any wording indicating that he has expert knowledge in accounting or auditing, to any accounting or financial statement, or to any opinion on, report on or certificate to any accounting or financial statement,] unless he holds a permit issued under KRS 325.330 which has not been revoked or suspended, *and all offices of such individuals located in this state for the practice of public accounting are maintained and registered as required under KRS 325.321;* provided, however, that the provisions of this subsection shall not prohibit any officer, employe, partner or principal of any organization from affixing his signature to any statement or report in reference to the financial affairs of said organization with any wording designating the position, title, or office which he holds in said organization, nor shall the provisions of this subsection prohibit any act of a public official or public employe in the performance of his duties as such.

(7) *No person shall sign or affix a partnership or corporate name to any opinion or certificate attesting in any way to the reliability of any representation or estimate in regard to any person or organization embracing (a) financial information or (b) facts respecting compliance with conditions established by law or contract, including but not limited to, statutes, ordinances, regulations, grants, loans, and appropriations, together with any wording, accompanying or contained in such opinion or certificate, which indicates that such partnership or corporation is composed of or employs (i) accountants or auditors or (ii) persons having expert knowledge in accounting or auditing,* [No individual shall sign or affix a partnership name, with any wording indicating that it is a partnership composed of accountants or auditors or persons having expert knowledge in accounting or auditing, to any accounting or financial statement, or to any report on or certificate to any accounting or financial statement,] unless the partnership *or corporation* holds a permit issued under KRS 325.330 which has not been revoked or suspended *and all offices of such person in this state for the practice of public accounting are maintained and registered as required under KRS 325.321.*

[(8) No individual shall sign or affix a corporate name, with any wording indicating that it is a corporation performing services as accountants or auditors or composed of accountants or auditors or persons having expert knowledge in accounting or auditing, to any accounting or financial statement, or to any report on or certificate to any accounting or financial statement.]

(8) No person shall assume or use the title or designation "certified public accountant" or "public accountant" in conjunction with names indicating or implying that there is a partnership or corporation, or in conjunction with the designation "and Company" or "and Associates" or a similar designation if, in any such case, there is in fact no bona fide partnership or corporation registered under KRS 325.300 or KRS 325.320.

(9) No corporation performing functions permitted by this Act shall use designations such as "and Company" or "and Associates" or a similar designation, if in any such case, there is in fact only one shareholder.

Section 14. KRS 325.390 is amended to read as follows:

(1) Nothing contained in KRS 325.220 to 325.440 shall prohibit any individual not a certified public accountant or public accountant from serving as an employe of, or an assistant to, a certified public accountant or public accountant or partnership *or corporation* composed of certified public accountants or public accountants holding a permit to practice under KRS 325.330; Provided That such employe or assistant shall not issue any accounting or financial statement over his name.

(2) The board shall adopt rules and regulations providing for the issuance of temporary permits upon written application, as a privilege to out-of-state certified public accountants, partnerships, or corporations of certified public accountants for the purpose of enabling such individuals, partnerships or corporations to perform public accounting services in Kentucky. No such temporary permit shall be valid for more than six months after its issuance. After the expiration of six months, a new permit shall be required. Such temporary practice must be conducted in conformity with the regulations and rules of professional conduct promulgated by the board.

(a) A temporary permit shall not be required if the out-of-state certified public accountant, partnership or corporation of certified public accountants is entering the state solely for the purpose of serving as a bona fide employe, partner or shareholder of a Kentucky registrant in performing services for the clients of the Kentucky registrant.

(b) Each application of an out-of-state certified public accountant, partnership or corporation of certified public accountants for a temporary permit shall require a payment of a permit fee to be fixed by the board not to exceed $50.00.

(c) The application by an out-of-state certified public accountant, partnership or corporation of certified public accountants for a temporary permit shall constitute the appointment of the Secretary of State as their agent on whom process may be served in any action or proceeding against them arising out of any transaction or operation connected with or incidental to fulfilling the engagements for which the temporary permit was issued.

[(2) Nothing contained in KRS 325.220 to 325.440 shall prohibit a certified public accountant or a registered public accountant of another state, or any accountant who holds a certificate, degree or license in a foreign country, constituting a recognized qualification for the practice of public accounting in such country, from temporarily practicing in this state on professional business incident to his regular practice outside this state; Provided, That such temporary practice is conducted in conformity with the regulations and rules of professional conduct promulgated by the board.]

Section 15. KRS 325.400 is amended to read as follows:
Whenever in the judgment of the board any person, *partnership or corporation* has engaged, or is about to engage, in any acts or practices which constitute, or will constitute, a violation of KRS *Chapter 325* [325.380], the board may make application to the Franklin Circuit Court for an order enjoining such acts or practices, and upon a showing by the board that such person, *partnership or corporation* has engaged, or is about to engage, in any such acts or practices, an injunction, restraining order, or such other order as may be appropriate shall be granted by such court. The same shall be enforceable and shall be valid anywhere in this state and shall be reviewable as provided in the Rules of Civil Procedure in the case of other injunctions and restraining orders.

The Committee on Elections and Constitutional Amendments reported **HR 5, HR 6, HR 7, HR 23** and **SB 15** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HR 5, A CONCURRENT RESOLUTION petitioning the Congress of the United States to adopt a resolution submitting an amendment to the Constitution of the United States.

WHEREAS, every student is entitled to quality education; and

WHEREAS, quality in education does not depend on numerical ratios of races, religious preferences or national origins; and

WHEREAS, a school district based on a geographical area is compatible with a child's total development in a community; and

WHEREAS, the personal freedom of selecting an area in which to live and educate one's children is denied through court-ordered busing; and

WHEREAS, the General Assembly of the Commonwealth of Kentucky believes it to be in the best interest of the people of the United States that an amendment to the Constitution of the United States be adopted to prohibit assigning or transporting students to particular public schools on the basis of race, religion, color or national origin;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That the Congress of the United States be, and it hereby is, requested to adopt a resolution submitting the following amendment to the Constitution of the United States for ratification:
"No student shall be assigned, transported or compelled to attend any particular public school on account of race, religion, color or national origin."

Section 2. That a duly attested copy of this resolution be immediately transmitted to the Secretary of the Senate of the United States, the Clerk of the House of Representatives, each member of the Congress from this state and to each House of each state legislature in the United States.

HR 6, A CONCURRENT RESOLUTION petitioning the Congress of the United States to adopt a resolution submitting an amendment to the Constitution of the United States.

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That the Congress of the United States take appropriate action to adopt a Constitutional Amendment that will limit the terms of office for judges of the Supreme Court and the Federal Courts to six years.

Section 2. That the Clerk of the House transmit a copy of this Resolution to the President of the United States, the President of the Senate of the United States, the Speaker of the House of Representatives of the United States, each member of the Kentucky Congressional delegation, each judge of the United States Supreme Court and the Governor of the Commonwealth of Kentucky.

HR 7, A JOINT RESOLUTION to withdraw the ratification by the Kentucky General Assembly of the proposed 27th amendment to the Constitution of the United States, relative to equal rights for men and women.

WHEREAS, at the First Extraordinary Session of 1972, the General Assembly of the Commonwealth of Kentucky, by Joint Resolution, ratified an amendment to the Constitution of the United States proposed by House Joint Resolution 208 of the Ninety-Second Congress (Second Session), proposing the 27th amendment to the Constitution of the United States, relative to equal rights for men and women and reading as follows:

Joint Resolution

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), that the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission by the Congress:

Article

Section 1. Equality of rights under law shall not be denied or abridged by the United States or any state on account of sex.

Section 2. The Congress shall have the power to enforce by appropriate legislation the provisions of this article.

Section 3. This amendment shall take effect two years after the date of ratification.

WHEREAS, it is the desire of the General Assembly of the Commonwealth of Kentucky that the Joint Resolution of the General Assembly of the Commonwealth of Kentucky ratifying the amendment be withdrawn;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. That the ratification of the proposed 27th amendment to the Constitution of the United States, relative to equal rights for men and women, effected for Kentucky by the adoption of House Joint Resolution 2 at the First Extraordinary Session of 1972 of the Kentucky General Assembly, is withdrawn, the action of the General Assembly of the Commonwealth of Kentucky thereon is hereby rescinded, and House Joint Resolution 2 is repealed.

Section 2. That copies of this resolution, duly certified by the Secretary of State of the Commonwealth of Kentucky with the Great Seal of Kentucky attached thereto, be sent to the Administrator of General Services of the United States, Washington, D. C., to the President of the Senate and to the Speaker of the House of Representatives of the Congress of the United States. The Secretary of State of this Commonwealth shall also cause certified copies of the resolution to be sent to the Governor of each of the United States.

HR 23, A CONCURRENT RESOLUTION petitioning the Congress of the United States to adopt a resolution submitting an amendment to the Constitution of the United States.

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That the Congress of the United States be, and it hereby is, requested to adopt a resolution submitting the following amendment to the Constitution of the United States for ratification:

"No branch of government, executive, legislative or judicial, at any level, federal, state or local, nor any subdivision or agency thereof, nor any public authority or quasi-public authority, shall make any law, establish

any regulation or issue any decree, or enforce any law, regulation or decree, thus originating, which shall require any citizen of the United States to perform any act because of his or her race, or which shall prevent any citizen of the United States from performing any act because of his or her race, or which shall require of any citizen of the United States because of the race of that citizen performance of or forebearance from the performance of any act as a condition to the grant of any right or privilege to that citizen or as a condition to the exercise of any right or privilege by that citizen.

Freedom from all such laws, regulations and decrees, thus originating, and from all assignments and requirements that may be incident thereto, based in whole or in part upon the race of the recipient or recipients thereof, shall be an inviolate privilege and immunity of every citizen of the United States of every race and of every age."

Section 2. That a duly attested copy of this resolution be immediately transmitted to the Secretary of the Senate of the United States, the Clerk of the House of Representatives, each member of the Congress from this state and to each house of each state legislature in the United States.

SB 15, AN ACT relating to elections.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 121.160 is amended to read as follows:

(1) Each candidate shall designate a campaign treasurer at the time and with the office he files as a candidate on a duplicate form prescribed and furnished by the registry and until this requirement is met *the candidate shall be listed as his own treasurer and accountable as such* [his qualifications as a candidate shall not be complete and his filing papers shall not be accepted by the office with which he is required to file]. The candidate may appoint himself or any registered voter in Kentucky as his campaign treasurer. The office with which the candidate is required to file shall immediately forward to the registry the duplicate copy of the completed form designating the candidate's campaign treasurer and shall attach the original to the candidate's filing papers. The office with which the candidate files shall promptly notify the registry when a candidate withdraws.

(2) The duties of a campaign treasurer shall be to:

(a) Designate a depository bank for all campaign funds;

(b) Keep detailed and exact accounts of contributions in general and by name, address and occupation where the contribution exceeds $100;

(c) Make or authorize all expenditures on behalf of a candidate. Any expenditure in excess of $50 shall disclose the name, address and occupation of every person or firm to whom made, and shall list the date and amount of such expenditure and keep a receipted bill for each;

(d) Maintain all receipted bills and accounts required by this section for a period of four (4) years from the date he files his last report under KRS 123.086(2)(a).

(3) A candidate may remove a campaign treasurer at any time.

(4) In case of death, resignation or removal of a campaign treasurer the candidate shall within three (3) days after receiving notice thereof by certified mail, return receipt requested, or registered mail appoint a successor and shall file his name and address with the registry. *The candidate shall be accountable as his own campaign treasurer if he fails to meet this filing requirement* The [candidate shall be disqualified if he fails to meet this filing requirement].

(5) A person may serve as campaign treasurer for more than one candidate, but all reports must be made separately for each individual candidate.

(6) The candidate may pay a campaign treasurer a salary for his services which shall be considered a campaign expense and must comply with the reporting provisions of KRS 121.015 and 121.100 to 121.200 and those adopted by the registry.

The Committee on Highways and Traffic Safety reported **HB 83,** with Committee Substitute attached thereto, and **HB 86** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 83, AN ACT relating to traffic offenses.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 189 is created to read as follows:
Any person who drives any vehicle in wilful or wanton disregard for the safety of persons or property is guilty of reckless driving.

Section 2. A new section of KRS Chapter 189 is created to read as follows:
Every person convicted of reckless driving shall be punished upon a first conviction by a fine of not less than twenty-five dollars ($25) nor more than five hundred dollars ($500), and on a second conviction shall be punished by imprisonment for not less than five (5) days nor more than ninety (90) days, or by a fine of not less than fifty dollars ($50) nor more than five hundred dollars ($500) or by both such fine and imprisonment, and on a third or subsequent conviction shall be punished by imprisonment for not less than ten (10) days nor more than six (6) months, or by a fine of not less than fifty dollars ($50) nor more than five hundred dollars ($500), or by both such fine and imprisonment.

Section 3. A new section of KRS Chapter 189 is created to read as follows:
No person shall wilfully operate any vehicle on any highway in such a manner as to injure the highway.

Section 4. A new section of KRS Chapter 189 is created to read as follows:
Any person who violates any of the provisions of Section 3 of this Act shall be fined not less than ten dollars ($10) nor more than one hundred dollars ($100) for each offense.

Section 5. KRS Section 189.290 is repealed.

Section 6. KRS 189.990 is amended to read as follows:
(1) Any person who violates any of the provisions of KRS 189.020 to 189.040, subsections (1), (2) and (5) of KRS 189.050, KRS 189.060 to 189.080, subsections (1) to (3) of KRS 189.090, KRS 189.100, 189.110, 189.130 to 189.160, subsections (2) to (4) of KRS 189.190, KRS 189.200, [189.290,] 189.300 to 189.360, KRS 189.380, KRS 189.390, except paragraph (c) of subsection (4), KRS 189.400 to 189,430, 189.450 to 189.480, subsection (1) of KRS 189.520, KRS 189.540, subsection (1) of KRS 189.560, KRS 189.570 to 189.630, except subsection (1) of KRS 189.580, shall be fined not less than $10.00 nor more than $100 for each offense. Any person who violates subsection (1) of KRS 189.580 shall be fined not less than $10.00 nor more than $2,000 or imprisoned in the county jail for not more than one (1) year, or both. Any person who violates paragraph (c) of subsection (4) of KRS 189.390 shall be fined not less than $1.00 nor more than $20.00. Neither court costs nor fees shall be taxed against any person convicted of violating paragraph (c) of subsection (4) of KRS 189.390.

(2)(a) Any person who violates the weight provisions of KRS 189.221, 189.222, 189.226, 189.230, 189.270 or 189.271 shall, upon conviction, be fined in an amount equal to two cents (2¢) per pound for each pound of excess load when the excess is 2,000 pounds or less, three cents (3¢) per pound when the excess exceeds 2,000 pounds and is 3,000 pounds or less, five cents (5¢) per pound when the excess exceeds 3,000 pounds and is 4,000 pounds or less, seven cents (7¢) per pound when the excess exceeds 4,000 pounds and is 5,000 pounds or less, and nine cents (9¢) per pound when the excess exceeds 5,000 pounds but in no case shall the fine be less than $50.00 nor more than $500.

(b) Any person who violates any provision of subsections (3) and (4) of KRS 189.050, subsection (4) of KRS 189.090, KRS 189.221 to 189.230, 189.270, 189.280, or 189.490, for which another penalty is not specifically provided, shall be guilty of a misdemeanor and upon conviction thereof, shall be fined in any sum not exceeding $500.

(c) Nothing in this subsection or in KRS 189.221 to 189.228 shall be deemed to prejudice or affect the authority of the bureau of vehicle regulation to suspend or revoke certificates of common carriers, permits of contract carriers, or drivers' or chauffeurs' licenses, for any violation of KRS 189.221 to 189.228 or any other act applicable to motor vehicles, as provided by law.

(3) Any person who violates KRS 189.170 shall be fined not less than $5.00 nor more than $50.00 for each day he operates a truck in violation of KRS 189.170.

(4)(a) Any person who violates subsection (1) of KRS 189.190 shall be fined not more than $5.00.

(b) Any person who violates subsection (5) of KRS 189.190 shall be fined not less than $25.00 nor more than $200.

(5)(a) Any person who violates subsection (1) of KRS 189.210 shall be fined not less than $15.00 nor more than $100.

(b) Any peace officer who fails, when properly informed, to enforce KRS 189.210 shall be fined not less than $15.00 nor more than $100.

(c) All fines collected under this subsection, after payment of commissions to officers entitled thereto, shall go to the county road fund if the offense is committed in the county, or to the city street fund if committed in the city.

(6) Any person who violates subsection (1) of KRS 189.370 shall be fined not more than $500 or imprisoned for not more than six (6) months, or both.

(7) Any person who violates KRS 189.500 shall be fined not more than $5.00 in excess of the cost of the repair of the road.

(8) Any person who violates KRS 189.510 shall be fined not less than $10.00 nor more than $50.00.

(9)(a) Any person who violates subsection (2) of KRS 189.520 shall be fined, for the first offense, not less than $100 nor more than $500; for the second offense, a fine of not less than $100 nor more than $500 and imprisoned for not less than three (3) days nor more than six (6) months; for each subsequent offense he shall be fined not less than $100 nor more than $500 and imprisoned for not less than thirty (30) days nor more than twelve (12) months.

(b) Any peace officer who violates subsection (3) of KRS 189.520 shall be fined not less than $25.00 nor more than $100.

(10) Any person who violates KRS 189.530 shall be fined not less than $25.00 nor more than $100 or imprisoned not less than thirty (30) days nor more than twelve (12) months, or both.

(11) Any person who violates any of the provisions of KRS 189.550 shall be fined not less than $10.00 nor more than $100 for each offense.

(12) Any person who violates subsection (2) of KRS 189.560 shall be fined not less than $20.00 nor more than $100 for each offense.

(13) The fines imposed by paragraph (a) of subsection (4) and subsections (7) and (8) of this section shall, in the case of a public highway, be paid into the county road fund, and in case of a privately owned road or bridge be paid to the owner. These fines shall not bar an action for damages for breach of contract.

(14) Any person who violates any of the provisions of KRS 189.120 shall be fined not less than $10.00 nor more than $100 for each offense.

(15) Any person who violates any provision of KRS 189.575 shall, upon conviction thereof, be fined not exceeding $25.00.

(16) Any person who violates subsection (2) of KRS 189.231 shall be fined not less than $10.00 nor more than $100 for each offense.

(17)(a) Any person who violates any of the provisions of KRS 189.565 shall be fined not less than $15.00 nor more than $200, or imprisoned for not more than thirty (30) days or both.

(b) In addition to the penalties prescribed in paragraph (a) of this subsection, in case of violation by any person in whose name such vehicle used in the transportation of inflammable liquids or explosives is licensed, such person shall be fined not less than $100 nor more than $500. Each violation shall constitute a separate offense.

(18) Any person who abandons a vehicle upon the right of way of a state highway for seven (7) consecutive days shall be fined not less than twenty-five dollars ($25.00) nor more than one hundred dollars ($100) or imprisoned for not less than ten (10) days nor more than thirty (30) days.

(19) Every person convicted for violation of KRS 189.393 shall be punished upon a first conviction by imprisonment for a period of not less than five (5) days nor more than ninety (90) days, or by fine of not less than $25.00 nor more than $500, or by both such fine and imprisonment, and on a second or subsequent conviction shall be punished by imprisonment for not less than ten (10) days nor more than six (6) months, or by a fine of not less than $50.00 nor more than $1,000, or by both such fine and imprisonment.

(20) Any law enforcement agency which fails or refuses to forward the reports required by KRS 189.635 shall be subject to the penalties prescribed in KRS 17.157(2).

(21) A person who elects to operate a bicycle in accord with any regulations adopted pursuant to KRS 189.287 and who wilfully violates a provision of such a regulation shall be fined not more than one hundred dollars ($100). A person who operates a bicycle without complying with any regulations adopted pursuant to KRS 189.287 or vehicle safety statutes shall be prosecuted for violation of the latter.

(22) Any person who violates this section shall be fined not more than five hundred dollars ($500) or imprisoned for not more than six (6) months, or both.

The Committee Substitute for **HB 83** is as follows:

HB 83, AN ACT relating to traffic offenses.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 189.290 is amended to read as follows:

(1) *Any person who drives any vehicle in wilful or wanton disregard for the safety of persons or property is guilty of reckless driving.* [The operator of any vehicle upon a highway shall operate the vehicle in a careful manner, with regard for the safety and convenience of pedestrians and other vehicles upon the highway.]

(2) *Any* [No] person *who* shall wilfully operate any vehicle on any highway in such a manner as to injure the highway *shall be guilty of careless driving.*

Section 2. KRS 189.990 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 189.020 to 189.040, subsections (1), (2) and (5) of KRS 189.050, KRS 189.060 to 189.080, subsections (1) to (3) of KRS 189.090, KRS 189.100, 189.110, 189.130 to 189.160, subsections (2) to (4) of KRS 189.190, KRS 189.200, *subsection (2) of KRS* 189.290, 189.300 to 189.360, KRS 189.380, KRS 189.390, except paragraph (c) of subsection (4), KRS 189.400 to 189.430, 189.450 to 189.480, subsection (1) of KRS 189.520, KRS 189.540, subsection (1) of KRS 189.560, KRS 189.570 to 189.630, except subsection (1) of KRS 189.580, shall be fined not less than $10.00 nor more than $100 for each offense. Any person who violates subsection (1) of KRS 189.580 shall be fined not less than $10.00 nor more than $2,000 or imprisoned in the county jail for not more than one (1) year, or both. Any person who violates paragraph (c) of subsection (4) of KRS 189.390 shall be fined not less than $1.00 nor more than $20.00. Neither court costs nor fees shall be taxed against any person convicted of violating paragraph (c) of subsection (4) of KRS 189.390.

(2)(a) Any person who violates the weight provisions of KRS 189.221, 189.222, 189.226, 189.230, 189.270 or 189.271 shall, upon conviction, be fined in an amount equal to two cents (2¢) per pound for each pound of excess load when the excess is 2,000 pounds or less, three cents (3¢) per pound when the excess exceeds 2,00 pounds and is 3,000 pounds or less, five cents (5¢) per pound when the excess exceeds 3,000 pounds and is 4,000 pounds or less, seven cents (7¢) per pound when the excess exceeds 4,000 pounds and is 5,000 pounds or less, and nine cents (9¢) per pound when the excess exceeds 5,000 pounds but in no case shall the fine be less than $50.00 nor more than $500.

(b) Any person who violates any provision of subsections (3) and (4) of KRS 189.050, subsection (4) of KRS 189.090, KRS 189.221 to 189.230, 189.270, 189.280, or 189.490, for which another penalty is not specifically provided, shall be guilty of a misdemeanor and upon conviction thereof, shall be fined in any sum not exceeding $500.

(c) Nothing in this subsection or in KRS 189.221 to 189.228 shall be deemed to prejudice or affect the authority of the bureau of vehicle regulation to suspend or revoke certificates of common carriers, permits of contract carriers, or drivers' or chauffeurs' licenses, for any violation of KRS 189.221 to 189.228 or any other act applicable to motor vehicles, as provided by law.

(3) Any person who violates KRS 189.170 shall be fined not less than $5.00 nor more than $50.00 for each day he operates a truck in violation of KRS 189.170.

(4)(a) Any person who violates subsection (1) of KRS 189.190 shall be fined not more than $5.00.

(b) Any person who violates subsection (5) of KRS 189.190 shall be fined not less than $25.00 nor more than $200.

(5)(a) Any person who violates subsection (1) of KRS 189.210 shall be fined not less than $15.00 nor more than $100.

(b) Any peace officer who fails, when properly informed, to enforce KRS 189.210 shall be fined not less than $15.00 nor more than $100.

(c) All fines collected under this subsection, after payment of commissions to officers entitled thereto, shall go to the county road fund if the offense is committed in the county, or to the city street fund if committed in the city.

(6) Any person who violates subsection (1) of KRS 189.370 shall be fined not more than $500 or imprisoned for not more than six (6) months, or both.

(7) Any person who violates KRS 189.500 shall be fined not more than $5.00 in excess of the cost of the repair of the road.

(8) Any person who violates KRS 189.510 shall be fined not less than $10.00 nor more than $50.00.

(9)(a) Any person who violates subsection (2) of KRS 189.520 shall be fined, for the first offense, not less than $100 nor more than $500; for the second offense, a fine of not less than $100 nor more than $500 and imprisoned for not less than three (3) days nor more than six (6) months; for each subsequent offense he shall be fined not less than $100 nor more than $500 and imprisoned for not less than thirty (30) days nor more than twelve (12) months.

(b) Any peace officer who violates subsection (3) of KRS 189.520 shall be fined not less than $25.00 nor more than $100.

(10) Any person who violates KRS 189.530 shall be fined not less than $25.00 nor more than $100 or imprisoned not less than thirty (30) days nor more than twelve (12) months, or both.

(11) Any person who violates any of the provisions of KRS 189.550 shall be fined not less than $10.00 nor more than $100 for each offense.

(12) Any person who violates subsection (2) of KRS 189.560 shall be fined not less than $20.00 nor more than $100 for each offense.

(13) The fines imposed by paragraph (a) of subsection (4) and subsections (7) and (8) of this section shall, in the case of a public highway, be paid into the county road fund, and in case of a privately owned road or bridge be paid to the owner. These fines shall not bar an action for damages for breach of contract.

(14) Any person who violates any of the provisions of KRS 189.120 shall be fined not less than $10.00 nor more than $100 for each offense.

(15) Any person who violates any provision of KRS 189.575 shall, upon conviction thereof, be fined not exceeding $25.00.

(16) Any person who violates subsection (2) of KRS 189.231 shall be fined not less than $10.00 nor more than $100 for each offense.

(17)(a) Any person who violates any of the provisions of KRS 189.565 shall be fined not less than $15.00 nor more than $200, or imprisoned for not more than thirty (30) days or both.

(b) In addition to the penalties prescribed in paragraph (a) of this subsection, in case of violation by any person in whose name such vehicle used in the transportation of inflammable liquids or explosives is licensed, such person shall be fined not less than $100 nor more than $500. Each violation shall constitute a separate offense.

(18) Any person who abandons a vehicle upon the right of way of a state highway for seven (7) consecutive days shall be fined not less than twenty-five dollars ($25.00) nor more than one hundred dollars ($100) or imprisoned for not less than ten (10) days nor more than thirty (30) days.

(19) Every person convicted for violation of KRS 189.393 shall be punished upon a first conviction by imprisonment for a period of not less than five (5) days nor more than ninety (90) days, or by fine of not less than $25.00 nor more than $500, or by both such fine and imprisonment, and on a second or subsequent conviction shall be punished by imprisonment for not less than ten (10) days nor more than six (6) months, or by a fine of not less than $50.00 nor more than $1,000, or by both such fine and imprisonment.

(20) Any law enforcement agency which fails or refuses to forward the reports required by KRS 189.635 shall be subject to the penalties prescribed in KRS 17.157(2).

(21) A person who elects to operate a bicycle in accord with any regulations adopted pursuant to KRS 189.287 and who wilfully violates a provision of such a regulation shall be fined not more than one hundred dollars ($100). A person who operates a bicycle without complying with any regulations adopted pursuant to KRS 189.287 or vehicle safety statutes shall be prosecuted for violation of the latter.

(22) Any person who violates this section shall be fined not more than five hundred dollars ($500) or imprisoned for not more than six (6) months, or both.

(23) Every person convicted of reckless driving as provided in subsection (1) of KRS 189.290 shall be punished upon a first conviction by a fine of not less than twenty-five dollars ($25) nor more than five hundred dollars ($500), and on a second conviction shall be punished by imprisonment for not less than five (5) days nor more than ninety (90) days, or by a fine of not less than fifty dollars ($50) nor more than five hundred dollars ($500) or by both such fine and imprisonment, and on a third or subsequent conviction shall be punished by imprisonment for not less than ten (10) days nor more than six (6) months, or by a fine of not less than fifty dollars ($50) nor more than five hundred dollars ($500), or by both such fine and imprisonment.

HB 86, AN ACT relating to highway construction and financing.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 175.500 is amended to read as follows:

(1) The authority is hereby authorized to provide, at one (1) time or from time to time, for the issuance of its turnpike revenue bonds for the purpose of paying all or any part of the cost of any one or more turnpike projects undertaken pursuant to an agreement and lease. The principal of and the interest on such bonds shall be payable solely from the funds provided for such payment. The bonds of any issue may be in one or more series and any one or more such series may enjoy equal or subordinate status with respect to the pledge of funds from which they are payable, shall be dated, shall bear interest at such rate or rates not exceeding six and one-half per cent (6 1/2%) per annum, shall mature at such time or times not exceeding forty (40) years from their date or dates, all as may be provided by the authority, and may be made redeemable before maturity, at the option of the authority, at such price or prices and under such terms and conditions as may be fixed by the authority prior to the issuance of the bonds. The authority shall determine the form of the bonds, including any interest coupons to be attached thereto, and shall fix the denomination or denominations of the

bonds and the place or places for payment of principal and interest, which may be at any bank or trust company within or without the commonwealth. The bonds shall be signed by the facsimile signature of the chairman of the authority, and the seal of the authority or a facsimile thereof shall be affixed thereto and attested by the manual signature of the secretary of the authority, and any coupons attached thereto shall bear the facsimile signature of the chairman of the authority. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds or coupons shall cease to be such officer before the delivery of such bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. All bonds issued under the provisions of this chapter shall have and are hereby declared to have all the qualities and incidents of negotiable instruments under the negotiable instruments law of the commonwealth. The bonds may be issued in coupon or in registered form, or both, as the authority may determine, and provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds of any bonds registered as to both principal and interest. The authority may sell such bonds in such manner, either at public or private sale, and for such price as it may determine will best effect the purposes of this chapter, but no such sale shall be made at a price so low as to require the payment of interest on the money received therefor at more than six and one-half per cent (6 1/2%) per annum computed with relation to the absolute maturity of the bonds in accordance with standard tables of bond values, excluding, however, from such computations the amount of any premium to be paid on redemption of any bonds prior to maturity.

(2) The proceeds of the bonds of each issue shall be used solely for the payment of the cost of the turnpike project or projects for which such bonds shall have been issued, and shall be disbursed in such manner and under such restrictions, if any, as the authority may provide in the proceedings authorizing the issuance of such bonds or in the trust indenture securing the same. If the proceeds of the bonds of any issue, by error of estimates or otherwise, shall be less than such cost, additional bonds may in like manner be issued to provide the amount of such deficit, and, unless otherwise provided in the proceedings authorizing the issuance of such bonds or in the trust indenture securing the same, shall be deemed to be of the same issue and shall be entitled to payment from the same fund without preference or priority of the bonds first issued. If the proceeds of the bonds of any issue shall exceed such cost, the surplus shall be deposited to the credit of the sinking fund or funds for such bonds or any account or accounts therein as the authority shall have provided in the proceedings or trust indenture authorizing and securing such bonds.

(3) Prior to the preparation of definitive bonds, the authority may, under like restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds shall have been executed and are available for delivery. The authority may also provide for the replacement of any bonds which shall become mutilated or shall be destroyed or lost. Bonds may be issued under the provisions of this chapter without obtaining the consent of any department, division, commission, board, bureau or agency of the commonwealth, and without any other proceedings or the happening of any other conditions or things, except as specifically required by this chapter.

(4) Prior to the issuance of definitive bonds or temporary bonds, or the securing of interim financing through bond anticipation notes or by any other means, the authority shall first obtain approval of the General Assembly sitting in regular or special session.

(5) This approval shall be by a joint resolution, which shall identify the project to be funded, as well as the source and amount of funds, and by appropriation of the first year's debt service. This shall not be construed as precluding feasibility studies conducted by the department with other available funds.

Section 2. KRS 177.450 is amended to read as follows:

(1) The bureau is hereby authorized to provide, at one time or from time to time, for the issuance of turnpike revenue bonds of the commonwealth for the purpose of paying all or any part of the cost of any one or more turnpike projects. The principal of and the interest on such bonds shall be payable solely from the funds provided in KRS 177.390 to 177.570 for such payment. The bonds of any issue may be in one (1) or more series and any one (1) or more of such series may enjoy equal or subordinate status with respect to the pledge of funds from which they are payable, shall be dated, shall bear interest at such rate or rates not exceeding six per cent (6%) per annum, shall mature at such time or times not exceeding forty (40) years from their date or dates, all as may be determined by the bureau, and may be made redeemable before maturity, at the option of the bureau, at such price or prices and under such terms and conditions as may be fixed by the bureau prior to the issuance of the bonds. The bureau shall determine the form of the bonds, including any interest coupons to be attached thereto, and shall fix the denomination or denominations of the bonds and the place or places for payment of principal and interest, which may be at any bank or trust company within or without the commonwealth. The bonds shall be signed by the commissioner of highways, and the great seal of the commonwealth or a facsimile thereof shall be affixed thereto and attested by the secretary of state by his facsimile signature, and any coupons attached thereto shall bear the facsimile signature of said commissioner of highways. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds or coupons shall cease to be such officer before the delivery of such bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such

delivery. All bonds issued under the provisions of KRS 177.390 to 177.570 shall have and are hereby declared to have all the qualities and incidents of negotiable instruments under the negotiable instruments law of the commonwealth. The bonds may be issued in coupon or in registered form, or both, as the bureau may determine, and provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds of any bonds registered as to both principal and interest. The bureau may sell such bonds in such manner, either at public or private sale, and for such price as it may determine will best effect the purposes of KRS 177.390 to 177.570, but no such sale shall be made at a price so low as to require the payment of interest on the money received therefor at more than six per cent (6%) per annum computed with relation to the absolute maturity of the bonds in accordance with standard tables of bond values, excluding, however, from such computations the amount of any premium to be paid on redemption of any bonds prior to maturity.

(2) The proceeds of the bonds of each issue shall be used solely for the payment of the cost of the turnpike project or projects for which such bonds shall have been issued, and shall be disbursed in such manner and under such restrictions, if any, as the bureau may provide in the proceedings authorizing the issuance of such bonds or in the trust agreement mentioned in KRS 177.460 securing the same. If the proceeds of the bonds of any issue, by error of estimates or otherwise, shall be less than such cost, additional bonds may in like manner be issued to provide the amount of such deficit, and, unless otherwise provided in the proceedings authorizing the issuance of such bonds or in the trust agreement securing the same, shall be deemed to be of the same issue and shall be entitled to payment from the same fund without preference or priority of the bonds first issued. If the proceeds of the bonds of any issue shall exceed such cost, the surplus shall be deposited to the credit of the sinking fund or funds for such bonds or any account or accounts therein as the bureau shall have provided in the proceedings or trust agreement authorizing and securing such bonds.

(3) Prior to the preparation of definitive bonds, the bureau may, under like restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds shall have been executed and are available for delivery. The bureau may also provide for the replacement of any bonds which shall become mutilated or shall be destroyed or lost. Bonds may be issued under the provisions of KRS 177.390 to 177.570 without obtaining the consent of any department, division, commission, board, bureau or agency of the commonwealth, and without any other proceedings or the happening of any other conditions or things than those proceedings, conditions or things which are specifically required by KRS 177.390 to 177.570.

(4) Prior to the issuance of definitive bonds or temporary bonds, or the securing of interim financing through bond anticipation notes or by any other means, the bureau shall first obtain approval of the General Assembly sitting in regular or special session.

(5) This approval shall be a joint resolution, which shall identify the project to be funded, as well as the source and amount of funds, and by appropriation of the first year's debt service. This shall not be construed as precluding feasibility studies conducted by the department with other available funds.

Section 3. KRS 180.070 is amended to read as follows:

(1) The bureau may issue negotiable bonds in order to raise funds to:

(a) [(1)] Acquire rights of way or other real or personal property necessary for constructing a bridge or bridge approach;

(b) [(2)] Pay for the purchase or condemnation of a bridge or bridge approach;

(c) [(3)] Build or cause to be built any bridge including approaches;

(d) [(4)] Pay for the preparations of plans, specifications and blueprints, and other expenses incidental to the building or purchase of the bridge or bridge approach; and

(e) [(5)] Pay the cost of bridge construction, repair, enlargement or reconstruction authorized under KRS 180.105 or KRS 180.106.

(2) Prior to the issuance of definitive bonds or temporary bonds, or the securing of interim financing through bond anticipation notes or by any other means, the bureau shall first obtain approval of the General Assembly sitting in regular or special session.

(3) This approval shall be by a joint resolution, which shall identify the project to be funded, as well as the source and amount of funds, and by appropriation of the first year's debt service. This shall not be construed as precluding feasibility studies conducted by the department with other available funds.

The Committee on Judiciary-Courts reported **HB 335** and **HB 356,** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 335, AN ACT relating to court judgments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 135.030 is amended to read as follows:

(1) Each circuit court clerk, county judge, police judge and justice of the peace shall, within ten (10) days after the adjournment of each term of court during which any judgment in favor of the state was rendered, issue proper process and place it in the hands of the sheriff on all such judgments that have not been paid or replevied in the office or remitted or respited by the governor, and each such clerk and judge shall, within ten (10) days after the maturity of each replevied bond on any such judgment entered in the court of which he is clerk or judge, issue executions and place them in the hands of the sheriff. Upon an execution so issued upon any replevied bond being returned by the sheriff without making the money, the officer who issued it shall reissue executions and place them in the hands of the sheriff from time to time at least once every ten (10) months for a period of five (5) years, and as often thereafter as demanded by the commonwealth's attorney, county attorney, sheriff or circuit court clerk. Upon all such judgments, executions or capias pro fine that are stayed or respited by the governor, the clerk or judge of the court in which the judgment has been entered shall issue proper process and place it in the hands of the sheriff within ten (10) days after the expiration of the stay or respite. A receipt shall be taken from the sheriff for all process placed in his hands pursuant to this section.

[(2) Each circuit court clerk, county judge, police judge and justice of the peace shall make out and forward to the executive department of finance and administration, in June of each year, a complete list of all unpaid judgments rendered in his court in favor of the state, showing at what date capias or other process issued, to whom delivered, what return has been made and the date of the return.]

(2) [(3)] Upon the failure of any circuit court clerk, county judge, police judge or justice of the peace to discharge his duties as required in this section, he shall be held responsible on his official bond for the amount of the judgment, interest and costs to which such failure is applicable.

(3) [(4)] Nothing in this section shall authorize the governor to remit any judgment unless it is a fine imposed as a punishment.

Section 2. KRS 135.990 is amended to read as follows:

(1) Except as provided in subsection (2) of this section, any officer who fails to perform any duty required of him by KRS 135.030 shall be fined not less than fifty dollars ($50.00) nor more than one hundred dollars ($100) for each offense.

[(2) Any circuit clerk who fails to make and forward the reports required by subsection (2) of KRS 135.030 shall be fined not less than two hundred dollars ($200) nor more than three hundred dollars ($300) for each offense, which may be recovered by motion, action or indictment in the Franklin Circuit Court.]

(2) [(3)] Any officer who makes a false return on an execution issued pursuant to subsection (1) of KRS 135.100 shall be fined twenty dollars ($20.00), upon notice and motion.

(3) [(4)] Any person who violates subsection (3) of KRS 135.100 shall be fined not less than five hundred dollars ($500).

(4) [(5)] Any person who fails to do an act required, or does an act forbidden, by any provision of this chapter for which no other penalty is provided shall be fined not less than ten dollars ($10.00) nor more than five hundred dollars ($500).

Section 3. KRS 46.990 is amended to read as follows:

(1) Any county or district officer authorized by law to make collections of funds for the state who fails or refuses to pay over to the state the funds so collected at the time he is required by law to report such collections to any state department shall be required to pay a penalty of ten per cent (10%) on all funds not so paid.

(2) Any officer who fails or neglects to perform any duty required of him by subsection (1) of KRS 46.030 shall be fined not less than fifty (50) nor more than one hundred dollars ($100) for each offense.

[(3) Any circuit clerk who fails to make and forward to the executive department of finance and administration the reports required by KRS 46.060 shall be fined not less than two hundred (200) nor more than three hundred dollars ($300) for each offense, which may be recovered by motion, action or indictment in the Franklin Circuit Court.]

(3) [(4)] Any officer who fails to use any book, blank or record required to be used under KRS 46.020, or who wilfully refuses to make any report required by the executive department of finance and administration under the provisions of KRS 46.010 or 46.020, shall be subject to indictment in the Franklin Circuit Court, and upon conviction shall be fined not less than twenty-five dollars ($25.00) nor more than five hundred dollars ($500) for each offense.

Section 4. KRS 28.150 and KRS 46.060 are repealed.

HB 356, AN ACT relating to attorney fees.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 453 is created to read as follows:

In any civil action filed in any court of competent jurisdiction the court may award, in addition to costs, reasonable attorney fees to the successful party.

In making the attorney fee award, the court will exercise discretion and will normally make such award only in cases of vexatious or unmerited suits or cases brought for harrassment, or cases of extraordinary circumstances or where it is in the interest of justice to do so.

The court may make such award on its own motion or upon motion of any party.

The Committee Amendment to **HB 356** is as follows:

Amend printed copy of House Bill 356 on page 1, line 5, by deleting the words "to the successful party"; and on line 8 by adding between the words "suits" and "or" the words "or defenses of suits"; and on line 9 by adding after the word "brought" the words "or defended".

The Committee on Judiciary-Statutes reported **HB 236** amd **HB 275** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 236, AN ACT relating to comparative fault.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 411 is created to read as follows:

In a tort action for damages on the basis of negligence, recklessness or strict liability, including statutory actions unless otherwise expressed or construed, contributory fault of the plaintiff, or, in a derivative action the person injured or killed, whether previously constituting a defense or not, does not necessarily bar recovery, but the damages are diminished in proportion to the amount of fault attributable to the plaintiff, the injured person or the decedent.

Section 2. A new section of KRS Chapter 411 is created to read as follows:

In a tort action involving contributory fault, the court shall instruct the jury to give answers to special interrogatories, or make findings itself if there is no jury, which indicate:

(1) The amount of damages which would have been recoverable if there had been no contributory fault,

(2) The percentage of the contributory fault for each plaintiff as compared with the total fault of all of the parties to the action, and

(3) The percentage of the fault of each defendant as compared with the total fault of all of the parties to the action.

Section 3. A new section of KRS Chapter 411 is created to read as follows:

This Act does not change common law principles of joint and several liability of joint tortfeasors. Contribution rights among multiple defendants are determined in accordance with the percentage of fault of each defendant, as found by the trier of fact. The court enters judgments on the basis of these principles and the findings made under Section 2.

Section 4. A new section of KRS Chapter 411 is created to read as follows:

To the extent that liability insurance is available to pay a judgment entered under this Act the principle of setoff is not applied.

Section 5. A new section of KRS Chapter 411 is created to read as follows:

This Act applies to all injuries incurred after the effective date of this Act.

HB 275, AN ACT relating to the recording of plats and surveys.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 382 is created to read as follows:

(1) Each plat or survey to be recorded shall contain an acknowledgement by the owner or owners of the property, and shall further contain therein the source of the owners title and shall locate the beginning point of the survey with accuracy.

(2) If such plat is filed for the purpose of subdividing the property shown thereon, the plat shall show thereon any dedication of streets or roadways for public use.

(3) Each plat or survey to be recorded shall contain thereon the land surveyor's name, address, and registration number, and shall be certified by the land surveyor that the beginning point, distances, and calls shown thereon are correct and accurate to his best knowledge and belief.

The Committee on Rules reported **HB 85, HB 87, HB 180,** and **HB 261** have been posted for passage in Orders of the Day, February 5, 1976.

The Committee on Rules reported **HB 186,** with Committee Substitute attached thereto, has been recommitted to the Committee on State Government.

The Speaker moved that **HB 396** be taken from the Committee on Health and Welfare and referred to the Committee on Business Organizations and Professions. Agreed.

Calendar

HB 269, with Committee Substitute attached thereto, **HB 36, HB 38** with Committee Amendment attached thereto, **HB 76,** and **HB 300** with Committee Amendment attached thereto, taken from the Calendar and ordered read at length for the second time. Representative B. Richardson moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Motions, Petitions and Communications

The following members filed Floor Amendments: Representative Richards, Floor Amendment No. 1 to **HB 249;** Representative Romines, Floor Amendment No. 1 to **HB 85;** Representative Yates, Floor Amendment No. 1 to **HB 276.**

Representative Givhan moved that the rules be suspended for the purpose of Posting of Bills and Resolutions for Consideration. Agreed.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Judiciary-Statutes: **HB 218, HB 305, HB 412, HB 407, HB 365, HB 364.**

Motions, Petitions and Communications (continued)

Representative Richards moved the adoption of the following Legislative Citation No. 13:

The House of Representatives of the Commonwealth of Kentucky hereby honors Miss Mary Hall Surface of Bowling Green, Kentucky as an outstanding citizen of the Commonwealth and congratulates her on her selection as Kentucky's Junior Miss of 1976. This body extends best wished to Miss Surface for the National Junior Miss pageant where she will be Kentucky's official representative. (Sponsored by Representative Richards)

Agreed.

Orders of the Day

HB 254, with Committee Substitute and Committee Title Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative B. Richardson moved the adoption of the Committee Substitute for **HB 254.** Agreed.

Representative B. Richardson moved the adoption of the following Floor Amendment No. 1 to the Committee Substitute for **HB 254:**

Amend printed copy of Committee Substitute for House Bill 254 on page 10 , line 21, after the word "bond;" insert:

"provided however this statement shall not be required of the defendant using his own property as security; or if the surety or sureties using their property as security are related to the defendant by consanguinity no further removed than first cousin; or if the surety of sureties is either a father-in-law, mother-in-law, son-in-law or daughter-in-law of the defendant;"

and on page 11, line 14, after the word "bond;" insert:

"provided however this statement shall not be required of the defendant using his own property as security; or if the surety or sureties using their property as security are related to the defendant by consanguinity no further removed than first cousin; or if the surety or sureties is either a father-in-law, mother-in-law, son-in-law or daughter-in-law of the defendant;"

Agreed.

Representative B. Richardson moved the adoption of the following Floor Amendment No. 2 to the Committee Substitute for **HB 254:**

Amend printed copy of Committee Substitute for House Bill 254 on page 4, line 5, by inserting after the word "posting" the following: "or causing to be posted by licensed insurers".

Agreed.

Representative Beshear moved that **HB 254,** by way of Committtee Substitute as amended, be passed.

On the roll call the vote was, yeas 89-Ackerson, B. Adams, A. S. Adams, J. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blandford, Blume, Blythe, Boatwright, Brinkley, Brown, Bruce, Burnette, Carpenter, Clapp, Clarke, Cooper, Craddock, Crupper, Dawahare, DeFalaise, DeMarcus, Denham, Deskins, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Floyd, Foster, Freeman, Gay, Givhan, Gray, Guenthner, Hancock, Hardwick, Head, Holloway, Hopkins, Hughes, Hurst, Imes, Jones, King, Kleier, LeMaster, Little, Mann, Mason, May, Maynard, McBee, McBride, Morris, Muncy, Nett, O'Brien, Overstreet, Pearl, Priddy, Richards, B. Richardson, P. Richardson, Robinson, Romines, Sale, Schmidt, Siemens, Siler, Stephens, Stewart, Thomas, J. Turner, R. Turner, Vincent, Wells, White, Wible, Wooden, Wright, Yates. Nays 8-W. Allen, Cyrus, Holbrook, Isler, Kidd, McGill, Rattliff, Tobin.

HB 254, by way of Committee Substitute as amended, was passed.

Representative B. Richardson moved the adoption of the Committee Title Amendment to **HB 254.** Agreed.

Representative B. Richardson moved that the vote by which **HB 254,** by way of Committee Substitute as amended, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 217 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Donnermeyer moved that **HB 217** be passed.

Representative DeFalaise moved that consideration of **HB 217** be deferred until Friday, February 6, 1976, and that it retain its position in Orders of the Day.

On the roll call the vote was, yeas 23-Ackerson, W. Allen, Arnold, Boatwright, Brinkley, Clarke, Cooper, Dawahare, DeFalaise, Denham, Freeman, Gay, Hancock, Holbrook, Hopkins, Hughes, Jones, Mason, May, Nett, Rattliff, P. Richardson, Tobin. Nays 57-B. Adams, A. S. Adams, J. Allen, Bendl, Bennett, Benson, Beshear, Blair, Blandford, Blume, Brown, Bruce, Burnette, Carpenter, Craddock, Crupper, Cyrus, Deskins, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Floyd, Foster, Givhan, Gray, Guenthner, Hardwick, Head, Holloway, Imes, Isler, Kenton, Kidd, LeMaster, Lindsay, Little, Mann, Maynard, McBee, McBride, Morris, O'Brien, Pearl, Richards, B. Richardson, Robinson, Siemens, Stephens, Thomas, R. Turner, Vincent, White, Wible, Wright, Yates.

The motion that **HB 217** be deferred until Friday, February 6, 1976, and that it retain its position in Orders of the Day was rejected.

Representative Donnermeyer moved that **HB 217** be passed.

On the roll call the vote was, yeas 72-Ackerson, B. Adams, A. S. Adams, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blandford, Blume, Boatwright, Brown, Bruce, Burnette, Carpenter, Clapp, Clarke, Craddock, Crupper, Cyrus, DeMarcus, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Floyd, Foster, Givhan, Gray, Guenthner, Hancock, Hardwick, Head, Holbrook, Holloway, Hopkins, Imes, Isler, Kenton, Kidd, King, Kleier, LeMaster, Mann, Maynard, McBee, McBride, McGill, Morris, Muncy, O'Brien, Priddy, Richards, B. Richardson, P. Richardson, Robinson, Romines, Sale, Schmidt, Siemens, Siler, Stephens, Thomas, R. Turner, Vincent, White, Wible, Wooden, Wright, Yates. Nays 19-J. Allen, W. Allen, Arnold, Brinkley, Cooper, Dawahare, DeFalaise, Denham, Deskins, Freeman, Hughes, Hurst, Lindsay, Little, Mason, Nett, Pearl, Rattliff, Tobin.

HB 217 was passed and the title agreed to.

Reprsentative Donnermeyer moved that the vote by which **HB 217** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 231 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative McBride moved that **HB 231** be passed.

On the roll call the vote was, yeas 25-Bendl, Bennett, Benson, Blandford, Clarke, DeFalaise, Dietz, Donnermeyer, Dunn, Fitzgerald, Hurst, Isler, Kenton, Kidd, King, Kleier, LeMaster, Mann, McBee, McBride, McGill, Priddy, Schmidt, J. Turner, Yates. Nays 66-Ackerson, B. Adams, A. S. Adams, J. Allen W. Allen, Arnold, Beshear, Bevins, Blair, Blume, Blythe, Boatwright, Brinkley, Brown, Bruce, Burnette, Carpenter, Clapp, Cooper, Craddock, Crupper, Cyrus, Dawahare, DeMarcus, Denham, Deskins, Doss, Floyd, Foster, Gay, Givhan, Gray, Guenthner, Hancock, Hardwick, Holbrook, Holloway, Hopkins, Hughes, Imes, Little, Mason, May, Maynard, Morris, Muncy, Nett, O'Brien, Overstreet, Pearl, Rattliff, Richards, B. Richardson, P. Richardson, Robinson, Sale, Siler, Stephens, Stewart, Tobin, R. Turner, Vincent, White, Wible, Wooden, Wright.

HB 231 was defeated.

Representative B. Richardson moved that consideration of **HB 59** be deferred and that it retain its position in Orders of the Day. Agreed.

Representative Blume moved that the vote by which **HB 231** was defeated be reconsidered and that **HB 231** be laid on the Clerk's desk.

On the roll call the vote was, yeas 30-Bendl, Bennett, Benson, Blandford, Blume, Clarke, DeFalaise, Dietz, Donnermeyrer, Dunn, Fitzgerald, Givhan, Hancock, Hurst, Isler, King, Kleier, LeMaster, Little, Mann, McBee, McBride, McGill, Priddy, Schmidt, Stephens, Stewart, Thomas, J. Turner, Yates. Nays 48-Ackerson, B. Adams, A. S. Adams, W. Allen, Beshear, Bevins, Blair, Boatwright, Brinkley, Burnette, Carpenter, Clapp, Cooper, Craddock, Crupper, Cyrus, Dawahare, DeMarcus, Denham, Deskins, Doss, Foster, Gay, Gray, Guenthner, Hardwick, Holbrook, Holloway, Hughes, Imes, Mason, May, Maynard, Nett, O'Brien, Overstreet, Pearl, Rattliff, Richards, B. Richardson, P. Richardson, Robinson, Sale, R. Turner, Vincent, White, Wible, Wright.

The motion that the vote by which **HB 231** was defeated be reconsidered and that **HB 231** be laid on the Clerk's desk was rejected.

Representative DeMarcus moved that the vote by which **HB 231** was defeated be reconsidered and said motion be postponed indefinitely.

On the roll call the vote was, yeas 53-Ackerson, B. Adams, A. S. Adams, W. Allen, Arnold, Beshear, Bevins, Blair, Boatwright, Brinkley, Burnette, Carpenter, Clapp, Cooper, Craddock, Crupper, Cyrus, Dawahare, DeMarcus, Denham, Deskins, Doss, Floyd, Foster, Gay, Gray, Guenthner, Hardwick, Holbrook, Holloway, Hopkins, Hughes, Imes, Little, May, Maynard, Muncy, Nett, O'Brien, Overstreet, Pearl, Rattliff, Richards, P. Richardson, Robinson, Romines, Sale, Siler, R. Turner, Vincent, White, Wible, Wright. Nays 26-Bendl, Bennett, Benson, Blandford, Blume, Blythe, Clarke, DeFalaise, Dietz, Donnermeyer, Dunn, Fitzgerald, Hancock, Hurst, Isler, King, LeMaster, Mann, McBride, Priddy, Schmidt, Stephens, Stewart, Thomas, J. Turner, Yates.

The motion that the vote by which **HB 231** was defeated be reconsidered and said motion be postponed indefinitely was adopted.

HB 80 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Denham moved that **HB 80** be passed.

On the roll call the vote was, yeas 96-Ackerson, B. Adams, A. S. Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blandford, Blume, Blythe, Boatwright, Brinkley, Brown, Bruce, Burnette, Carpenter, Clapp, Clarke, Cooper, Craddock, Crupper, Cyrus, Dawahare, DeFalaise, DeMarcus, Denham, Deskins, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Floyd, Foster, Freeman, Gay, Givhan, Gray, Guenthner, Hancock, Hardwick, Head, Holbrook, Holloway, Hopkins, Hughes, Imes, Isler, Jones, Kenton, Kidd, King, Kleier, LeMaster, Lindsay, Little, Mann, Mason, May, Maynard, McBee, McBride, McGill, Morris, Muncy, Nett, O'Brien, Pearl, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Robinson, Romines, Sale, Schmidt, Siler, Stephens, Stewart, Tobin, Thomas, J. Turner, R. Turner, Vincent, Wells, White, Wible, Wooden, Wright, Yates. Nays 0.

HB 80 was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **HB 80** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative B. Richardson moved that consideration of **HB 84** be deferred and that it retain its position in Orders of the Day. Agreed.

HB 125 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Yates moved that **HB 125** be passed.

On the roll call the vote was, yeas 80-Ackerson, B. Adams, J. Allen, Arnold, Bendl, Bennett, Beshear, Bevins, Blair, Blandford, Blume, Boatwright, Brinkley, Brown, Bruce, Burnette, Carpenter, Clapp, Clarke, Cooper, Craddock, Cyrus, Dawahare, DeFalaise, DeMarcus, Denham, Deskins, Doss, Dunn, Fitzgerald, Floyd, Foster Gay, Givhan, Gray, Guenthner, Hancock, Hardwick, Head, Holbrook, Holloway, Hopkins, Hughes, Jones, Kenton, Kidd, King, LeMaster, Little, Mann, Mason, May, McBride, McGill, Morris, Muncy, Nett, O'Brien, Overstreet, Pearl, Priddy, Richards, B. Richardson, P. Richardson, Robinson, Romines, Sale, Schmidt, Siler, Stewart, Tobin, Thomas, J. Turner, R. Turner, Vincent, Wells, White, Wooden, Wright, Yates. Nays 13-W. Allen, Benson, Crupper, Dietz, Donnermeyer, Freeman, Imes, Isler, Lindsay, Maynard, McBee, Stephens, Wible.

HB 125 was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **HB 125** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Report on Enrolled Bills

The Committee on Enrollment reported **HB 27** and **SB 69** had been examined and found correctly enrolled. **HB 27** and **SB 69** read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate.

Announcements

Representative Holbrook filed Floor Amendment No. 2 to **HB 20.**

Representative Bennett filed a request with the Clerk to have his name added as a co-sponsor of **HB 352.**

The following meetings were announced:

Appropriations and Revenue, 9:30 a.m., February 5, 1976, Senate Chamber.

Counties and Special Districts, 8:00 a.m., February 5, 1976, Room 307.

Adjournment

Representative B. Richardson moved that the House adjourn until 2:00 p.m., Thursday, February 5, 1976.

On the roll call the vote was, yeas 63-Ackerson, J. Allen, Arnold, Bendl, Benson, Bevins, Blair, Blandford, Blume, Boatwright, Brinkley, Brown, Burnette, Carpenter, Craddock, Crupper, Cyrus, DeFalaise, DeMarcus, Denham, Dietz, Donnermeyer, Dunn, Floyd, Foster, Givhan, Guenthner, Hancock, Hardwick, Head, Holbrook, Hughes, Isler, Jones, Kenton, Kidd, King, Kleier, LeMaster, Little, Mason, May, McBee, McBride, McGill, Muncy, Nett, Overstreet, Pearl, Rattliff, Richards, B. Richardson, P. Richardson, Robinson, Sale, Schmidt, Siler, Stephens, Tobin, R. Turner, Vincent, White, Wible. Nays 9-W. Allen, Deskins, Doss, Fitzgerald, Gray, Hurst, Imes, Mann, Priddy.

The motion to adjourn was adopted.

THURSDAY, FEBRUARY 5, 1976

TWENTY-FOURTH LEGISLATIVE DAY

The House was called to order by Speaker Kenton.

Prayer by Reverend W. P. Foree, Greater Bethel Temple, Louisville.

The roll was called. All present except Representative Morgan.

Representative Isler moved that absent members be granted leave of absence in accordance with the prevailing rules of the House. Agreed.

Representative Hughes moved that the reading of the Journal of February 4, 1976, be dispensed with and the same approved. Agreed.

Senate Message

Announcing passage of **SB 64.**

Introduction of Bills and Resolutions

HR 43, by Representative Benson: A RESOLUTION to adjourn the House in memory of James P. Hallahan.

HB 444, by Representatives Donnermeyer, McBee, Bendl, Bevins, Mann and Thomas: AN ACT relating to the presidential primary.

HB 445, by Representative Gray: AN ACT relating to circuit court clerk fees.

HB 446, by Representative McBride: AN ACT relating to legal actions.

HB 447, by Representatives Gray, Muncy, Boatwright, Brinkley, Burnette, Guenthner, Head, Holloway, Imes, Jones, Kleier, Morgan, and Tobin: AN ACT relating to taxation.

HB 448, by Representative DeFalaise: AN ACT relating to corrupt practices.

HB 449, by Representative DeFalaise: AN ACT relating to annexation by municipalities.

HB 450, by Representative Brown: AN ACT relating to workmen's compensation.

HB 451, by Representatives Arnold and Hancock: AN ACT relating to motor vehicle parking authorities in cities.

HB 452, by Representatives Schmidt, B. Adams, Blume, Clarke, DeFalaise, Donnermeyer, Gay, Guenthner, Holloway, King, May, Muncy, and Wells: AN ACT relating to the membership of boards of education.

HB 453, by Representative Tobin: AN ACT relating to cruelty to animals.

Report on Enrolled Bills

HB 27 delivered to the Senate, signed by President. Ordered delivered to the Governor.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Natural Resources: **HB 443.**

Education: **HB 440.**

Highways and Traffic Safety: **HB 430.**

Judiciary-Courts: **HB 431, HB 432, HB 433, HB 434, HB 435, HB 438.**

Judiciary-Statutes: **SB 110.**

Labor and Industry: **HB 429, HB 436.**

State Government: **HB 437, HB 439, HB 441, HB 442, HCR 42, SCR 17.**

The Committee on Committees reported the following State Government issues as submitted to the General Assembly by the Governor of the Commonwealth have been referred as follows:

Agriculture and Natural Resources: Issue relative to repair of dam on Cranks Creek.

Counties and Special Districts: Issue of Local Fire Department and Volunteer Rescue Squad Aid.

Education: Academic Consortia Issue; Career Education Issue; Consumer Education Issue; Council on Public Higher Education Issue; Course Credit; Effective use of K.E.T.; Graduate and Professional Enrollments; Kentucky Higher Education Assistance Authority; Kindergarten; Northern Kentucky State College; Regional Educational Services for Local School Districts; Roles of Higher Educational Institutions; Student Tuition; Teachers' Retirement System; Vocational Education; Weighted Pupil Formula; Exceptional Children.

Health and Welfare: The Issues of A.F.D.C. Payment Level; Community Mental Health Funding; Correctional Institutions; Medicaid Programs; Multi-Handicapped Facility; Protective Services for Abused Children and Adults; Psychiatric Hospital System; Rehabilitation; Respiratory Disease Hospitals.

Highways and Traffic Safety: Transportation Issue.

Judiciary-Courts: Judiciary Issues.

Labor and Industry: Elevator Inspection Issue; Issue of Federal Job Corps Center; Noise Abatement Issue; Uninsured Employers Fund.

Public Utilities and Transportation: Expert Witnesses Issue.

State Government: Issues of Discrimination Complaint Procedures; Bookmobile Program; Educational Programs for State Employes; Micrographic Program; Military Service Credit for Retirement; State Pay Plan Proposals; State Library Building; Merit System.

Appropriations and Revenue: All Issues above listed for budgetary consideration.

Report of Committees

The Committee on Agriculture and Natural Resources reported **HB 319,** HB 337, **HB 339,** and **HR 30** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 319, AN ACT relating to weed control.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 249.183 is amended to read as follows:

(1) The fiscal court of any county may, after notice and hearing, declare that a threat exists to the natural resource development and the agricultural economy of the county by reason of the growth and infestation of Canada thistles (cirsium arvense), [or] nodding thistles (carduus nutans), or *Johnson grass* [both] The notice shall be given by publication pursuant to KRS chapter 424. If after the hearing the fiscal court finds that thistles *or Johnson grass* are a threat in its county it shall by resolution so declare and make a request to the state department of agriculture for assistance to eradicate thistles *or Johnson grass.* A copy of the resolution shall be promptly certified and forwarded by the clerk of the court to the commissioner of agriculture.

(2) (a) Upon receipt of the resolution adopted pursuant to subsection (1) of this section the commissioner of agriculture shall promptly undertake the eradication of thistles *or Johnson grass* in the county for which the resolution was adopted.

(b) The commissioner shall appoint a county thistle control board *or a county Johnson grass control board* consisting of three (3) citizens of the county to serve as advisers and to assist in the administration of this law and to perform such other duties as prescribed by the commissioner. Members of the county thistle control board *or the county Johnson grass control board* shall receive no salary but shall be reimbursed by the fiscal court for necessary expenses incurred in performance of their duties.

(c) The commissioner of agriculture, in any county declared a thistle eradication area *or a Johnson grass eradication area* under subsection (1) of this section may enter upon any lands for the purpose of inspecting same and to insure compliance with KRS 249.183 to 249.195 and 249.991. He may enter into cooperative agreements with state and federal agencies and departments for the furtherance of the control and eradication of thistles *or Johnson grass.* He shall make all rules and regulations necessary to carry out the provisions of KRS 249.183 to 249.195 and 249.991.

(d) The commissioner may give the notice prescribed by KRS 249.190 to any landowner and if the landowner fails to comply with that section he shall enter upon the land and cut, spray or take such other measures as he deems proper to eradicate the thistles *or Johnson grass.* Notice to a landowner who does not reside in the county or who is unknown shall be given by posting of the notice on the land and at the front door of the court house in the county. The commissioner may recover from the landowner the compensation fixed by KRS 249.190 [,] for such eradication work. Any action for the recovery of such compensation shall be brought in the county in which the land is located and shall be governed by the Rules of Civil Procedure.

(3) The fiscal court of any county declared a thistle eradication area *or a Johnson grass eradication area* under subsection (1) of this section may by resolution declare that the threat to natural resources and agricultural economy in the county has ceased to exist and upon the adoption of the resolution a copy thereof shall be delivered to the commissioner of agriculture. Upon receipt of a copy of the resolution, all work on eradication of thistles *or Johnson grass* in the county under the direction of the commissioner shall be discontinued.

(4) In the administration of KRS 249.183 to 249.195 and 249.991 the commissioner may employ such persons and delegate to them such powers as are necessary to carry out the purposes of KRS 249.183 to 249.195 and 249.991.

(5) Neither the commissioner of agriculture nor any agent or other person acting under his direction shall be liable for any damages or injury to property or crops resulting from the administration or enforcement of KRS 249.183 to 249.195 and 249.991 unless the damage is caused by failure to exercise ordinary care to avoid or prevent the damage or injury.

Section 2. KRS 249.187 is amended to read as follows:

The existence of growth of Canada and nodding thistles *or Johnson grass* in any county declared to be a thistle *or Johnson grass* eradication area is declared to be a public nuisance and the commissioner of agriculture may bring an appropriate action in such county to enjoin such nuisance. At the request of the commissioner the county attorney shall prosecute such action.

Section 3. KRS 249.190 is amended to read as follows:

If any person who holds land on which Canada or nodding thistles *or Johnson grass* are growing and likely to ripen seed, neglects or refuses to cut and destroy them, any person who considers himself aggrieved or about to be injured by the neglect or refusal, or the commissioner of agriculture pursuant to subsection (2) of KRS 249.183, shall give five (5) days' notice in writing to the person who holds the land, to cut and destroy the Canada or nodding thistles *or Johnson grass.* On the neglect or refusal of the person who holds the land to cut and destroy them at the end of five (5) days, any person aggrieved, or believing himself about to be injured, or the commissioner of agriculture may enter upon or hire other persons to enter upon the land and cut down and destroy the Canada or nodding thistles *or Johnson grass.* The persons so employed may recover from the person who holds the land, compensation at the rate of fifteen dollars ($15.00) per day.

Section 4. KRS 249.195 is amended to read as follows:

All public utilities, the *department of transportation* [state highway department], the county court, railroads, drainage districts, school districts, road districts and other public and quasi-public corporations and every landowner in thistle *or Johnson grass* eradication areas shall:

(1) Control and eradicate Canada, and nodding thistles *and Johnson grass* and prevent their regrowth and reinfestation on all lands, rights of way and easements owned, occupied or controlled by them;

(2) Employ methods of control and eradication and for the prevention of the regrowth and reinfestation of such thistles *and Johnson grass* as directed by the commissioner of agriculture or the county thistle control board *or the county Johnson grass control board*;

(3) Comply with all orders, rules and regulations promulgated by the commissioner of agriculture pursuant to KRS 249.183 to 249.195 and 249.991.

HB 337, AN ACT relating to sewage system operators.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 224.135 is amended to read as follows:

(1) No person shall have primary responsibility for the operation of any sewage system or portion thereof whether publicly or privately owned unless he has passed an examination prescribed by the department for natural resources and environmental protection which shall determine his skill and competency for such operation and has been issued a certificate to that effect by the department.

(2) No person shall authorize or allow any person who does not hold a certificate issued pursuant to subsection (1) of this section to have primary responsibility for the operation of any sewage system or portion thereof.

(3) The department may classify all sewage systems and portions thereof in the manner provided by the rules and regulations of the department with regard to size, type, physical conditions affecting such systems or portions thereof, and the skill, knowledge and experience required for the operation of the system or portion thereof and restrict the application of any certificate issued pursuant to subsection (1) of this section to the operation of a sewage system or portion thereof of a specific class.

(4) The department shall establish, by regulation, a schedule of fees payable by applicants for examinations, certificates and renewal certificates for the operation of any sewage system or portion thereof, whether publicly or privately owned.

HB 339, AN ACT relating to bovine animals.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 247 is created to read as follows:

It is declared to be in the interest of the public welfare that Kentucky farmers who are producers of bovine animals shall be permitted and encouraged to act jointly and in cooperation with all producers, handlers, dealers, and processors of bovine animals in promoting and stimulating, by research, market development, and education, the increased production, use and sale, domestic and foreign, of bovine animals and bovine animal products.

Section 2. A new section of KRS Chapter 247 is created to read as follows:

As used in this Act unless the context otherwise requires:

(1) "Association" means any commission, council, board, or other body;

(2) "Commissioner" means the commissioner of agriculture;

(3) "Board" means the state board of agriculture;

(4) "Producer" means every person who produces bovine animals and thereafter causes the same to be marketed;

(5) "New producer" means a producer who was not engaged in the business of producing bovine animals at the time a referendum was conducted in accordance with the provisions of this Act; and

(6) "Person" means any individual, corporation, partnership, association, cooperative, or other business entity.

Section 3. A new section of KRS Chapter 247 is created to read as follows:

No association meeting or activity undertaken in pursuance of the provisions of this Act and intended to benefit all of the producers, handlers, and processors of bovine animals shall be deemed or considered illegal or in restraint of trade.

Section 4. A new section of KRS Chapter 247 is created to read as follows:

It is hereby further declared to be in the public interest and highly advantageous to the agricultural economy of the state that producers of bovine animals shall be permitted by referendum to be held among such respective groups and subject to the provisions of this Act to levy upon themselves an assessment on bovine animals and provide for the collection of the same for the purpose of financing or contributing towards the financing of a program of research, market development and education to increase the domestic and foreign consumption, use, sale, and markets for bovine animals and bovine animal products.

Section 5. A new section of KRS Chapter 247 is created to read as follows:

(1) Any existing association which is fairly representative of the bovine animal producers of Kentucky, such as the Kentucky Beef Cattle Association, may at any time after the enactment of this Act make application to the state board of agriculture on forms prescribed by such board for certification and approval for the purpose of conducting a referendum among the producers of bovine animals upon the question of levying an assessment under the provisions of this Act, collecting and utilizing the same for the purpose stated in such referendum. Such application forms shall include, but not be limited to, the following:

(a) Applicant's name;
(b) Applicant's address;
(c) Date;
(d) Program to be undertaken for producers;
(e) Brief statement of how the program is to be implemented;
(f) Referendum to be conducted on a statewide or area basis;
(g) Proposed effective date of the program;
(h) Geographic area, by counties, of producers to be affected by the program; and
(i) Signature of the applicant.

(2) Upon receipt of such application, the commissioner shall publish such application through the medium of the public press in the state within ten (10) days of receipt thereof.

Section 6. A new section of KRS Chapter 247 is created to read as follows:

Upon being so certified by the commissioner of agriculture, such association shall thereupon be fully authorized and empowered to hold and conduct on the part of the producers of bovine animals a referendum on the question of whether or not such producers shall levy upon themselves an assessment under, and subject to, and for the purposes stated in this Act. Such referendum may be conducted either on a statewide or area basis.

Section 7. A new section of KRS Chapter 247 is created to read as follows:

Any referendum conducted under the provisions of this Act may be held either on an area or statewide basis, as may be determined by such duly certified association before such referendum is called; and such referendum, on an area or statewide basis, may be participated in by all bovine cattle producers, including owners of farms on which such bovine cattle are produced and tenants sharing in the proceeds of bovine cattle. In the referendum, individuals so eligible for participation shall vote upon the question of whether or not there shall be levied an assessment in the amount set forth in the call for the referendum.

Section 8. A new section of KRS Chapter 247 is created to read as follows:

The manner, conduct, and management of any referendum held under the provisions of this Act shall be under the supervision and direction of the commissioner of agriculture, and any and all expenses in connection therewith shall be borne by the association conducting the referendum.

Section 9. A new section of KRS Chapter 247 is created to read as follows:

(1) With respect to any referendum conducted under the provisions of this Act, the commissioner of agriculture shall, before calling and announcing the referendum, fix, determine and publicly announce at least thirty (30) days before the date determined for the referendum, the date, hours and polling places for voting in the referendum, the effective date of the assessment, if adopted, the amount and basis of the assessment proposed to be collected, the means by which such assessment shall be collected if authorized by said

producers, and the general purposes to which said amount so collected shall be applied. No assessment levied under the provisions of any referendum shall exceed twenty-five cents ($.25) on each bovine animal marketed in the state by any producer included in the group to which such referendum was submitted or by any person subsequently becoming a new producer in the area in which such referendum was held.

(2) The first referendum held under the provisions of this Act shall specify that the assessment, if approved, levied under that referendum shall be ten cents ($.10) on each bovine animal.

(3) No assessment shall be made on any bovine animal marketed in the state which sells for ten dollars ($10) or less.

Section 10. A new section of KRS Chapter 247 is created to read as follows:

The hours, voting places, rules and regulations, and the area within which the referendum will be conducted shall be established and determined by the commissioner of agriculture; the said referendum date, area, hours, voting places, rules and regulations with respect to the holding of the referendum shall be published by the commissioner through the medium of the public press in the commonwealth of Kentucky at least thirty (30) days before the holding of such referendum, and direct written notice thereof shall likewise be given to each county or area agricultural extension agent in any county covered by such referendum. Such notice shall likewise contain a statement of the amount of the assessment proposed to be levied, and shall likewise state the method by which such assessment shall be collected and how the proceeds thereof shall be administered and the purposes to which the same shall be applied, which purposes shall be in keeping with the provisions of this Act.

Section 11. A new section of KRS Chapter 247 is created to read as follows:

The commissioner of agriculture shall likewise prepare and distribute in advance of such referendum all necessary ballots for the purpose thereof and shall arrange for the necessary poll holders for conducting the referendum. Following such referendum and within ten (10) days thereafter the commissioner shall canvass and publicly declare the result of such referendum.

Section 12. A new section of KRS Chapter 247 is created to read as follows:

If, in such referendum called under the provisions of this Act, a majority of the eligible producers in the area in which such referendum is conducted, who vote therein, shall vote in the affirmative and in favor of levying and collecting such assessment proposed in such referendum, then such assessment shall be collected in the manner determined and announced by the association conducting such referendum.

Section 13. A new section of KRS Chapter 247 is created to read as follows:

(1) In the event a majority of the eligible producers in such referendum who vote therein shall vote in favor of the assessment, then the commissioner shall notify forthwith, by registered or certified mail, every person licensed to operate a livestock market in the state, as well as every person who operates a meat packing or slaughter establishment which buys bovine animals directly from the producer, that on and after the date designated in the notice, which shall be not less than thirty (30) days nor more than sixty (60) days after the mailing of the notice by the commissioner, the amount of the assessment shall be deducted by all such sales markets or purchasers of bovine animals, or by their agents or representatives, from the purchase price paid the seller of bovine animals.

(2) On or before the fifteenth (15th) day of each month all assessments deducted shall be remitted to the association certified by the assessment referendum, less three percent (3%) which may be retained to compensate the stockyard operator, meat packer, or slaughter establishment operator for the expense of collecting and remitting the assessment.

(3) The books and records of all stockyard operators, meat packers and slaughter establishment operators shall at all times during regular business hours be open for inspection by the commissioner or his duly authorized agents for the purpose of ascertaining the accuracy of the amounts remitted.

Section 14. A new section of KRS Chapter 247 is created to read as follows:

In the event the referendum is carried in the affirmative and the assessment is levied and collected as provided, any producer upon and against whom such assessment shall have been levied and collected under the provisions of this Act, if dissatisfied with said assessment and the result thereof, shall have the right to demand of and receive from the treasurer of said certified association a refund of such assessment so collected from such producer; Provided, such demand for refund is made in writing within thirty (30) days from the date on which said assessment is collected from such producer.

Section 15. A new section of KRS Chapter 247 is created to read as follows:

(1) The board shall review the assessment program annually. If, at the end of each year after the first year of the assessment program, the board determines that fifty percent (50%) of the producers in the

referendum area are not participating in the program, the commissioner shall then conduct a referendum among the producers in such area. If, upon such referendum, a majority of the producers in the area reject the program, it shall be terminated as at the end of the month in which the referendum for the area was conducted and held; otherwise, such assessment program shall continue in force and effect.

(2) If the certified association of producers expresses in writing its desire to the commissioner to discontinue the assessment program and terminate the same, the commissioner shall within fifteen (15) days following receipt of the request convene the board to review and act on the request. The board, after reviewing such request and conducting whatever proceedings are deemed appropriate and necessary in connection with the request, may terminate the program effective at the end of the month in which the board action is taken; and in this event the commissioner shall notify, by registered or certified mail, all operators of a livestock market, meat packing establishment or slaughter establishment of the termination of the program.

(3) If the certified association requests in writing to the commissioner to hold a referendum on the question of increasing the assessment within the limits of this Act, the commissioner shall within fifteen (15) days of the receipt of the request convene the board to review and act on the request. The board, after reviewing the request and conducting whatever proceedings are deemed appropriate and necessary with the request, shall, if the request is approved, conduct a referendum in accordance with the provisions of this Act.

Section 16. A new section of KRS Chapter 247 is created to read as follows:

Whenever in the judgment of the board or the duly certified association, an operator of a livestock market, meat packing establishment, or slaughter establishment has engaged in or is about to engage in any acts or practices that constitute a violation of any of the provisions of this Act, the board or the duly certified association may make application to the Franklin Circuit Court for an order enjoining such Act, or Acts, or practices and obtain a restraining order and preliminary injunction against such operator.

Section 17. A new section of KRS Chapter 247 is created to read as follows:

Any operator of a livestock market, meat packing establishment, or slaughter establishment who violates or fails or refuses to comply with the provisions of this Act shall upon conviction be fined not less than twenty-five dollars ($25) nor more than fifty dollars ($50) for each offense. Each day of the violation, or failing, or refusing to comply with the provisions of this Act shall constitute a separate offense.

HR 30, A RESOLUTION commending national, state, and local organizations of the Future Farmers of America, and recognizing the week of February 21-28 as National FFA Week.

WHEREAS, the Kentucky Association of FFA is this year celebrating its 46th anniversary; and

WHEREAS, the week of February 21-28 has heretofore been designated by the National Organization of Future Farmers of America as National FFA Week; and

WHEREAS, this organization is composed of students who are studying vocational agriculture in the public schools in preparation for careers in agriculture and related occupations; and

WHEREAS, the FFA performs the valuable service of developing leadership, encouraging cooperation, promoting good citizenship, aiding in teaching agriculture, and inspiring patriotism among our youth; and

WHEREAS, the over 15,000 Kentucky FFA members in 157 FFA chapters are playing an outstanding role in assuring the future progress and prosperity of our area; and

WHEREAS, it is the consensus of the Senate of the Commonwealth of Kentucky to recognize the Future Farmers of America in a special way;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That special tribute is paid to the Kentucky Association of Future Farmers of America and the over 15,000 members of the FFA in the Commonwealth as they celebrate National FFA Week.

Section 2. That these young people are encourage to continue their education and leadership development in order to make more significant contributions.

Section 3. Kentucky's greatest return on investment will come in the form of its youth. The FFA is in the business of managing that investment. Kentucky FFA members are a "A Future For America."

The Committee on Counties and Special Districts reported **HB 202** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 202, AN ACT relating to the Auditor of Public Accounts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 43.070 is amended to read as follows:
(1) To determine whether any unauthorized, illegal, irregular, or unsafe handling or expenditure of revenue or other improper practice of financial administration has occurred and to assure that all proper items have been duly charged, taxed, and reported, the auditor shall audit annually:

(a) The funds contained in each county's budget; and

(b) The books, accounts, and papers of all county clerks, circuit clerks, county judges, county attorneys, sheriffs, jailers, coroners, constables, and justices of the peace exercising criminal jurisdiction; provided, however that the auditor shall not conduct such an audit if the elected official notifies the auditor that he has employed a certified public accountant to audit the books, accounts, and papers of his office.

(2) The county shall bear one-half (1/2) of the actual expense of the audit conducted pursuant to paragraph (a) of subsection (1) of this section and shall bear the total actual expense of the audit conducted pursuant to paragraph (b) of subsection (1) of this section.

(3) Within a reasonable time after the completion and distribution of the audit reports authorized by subsection (1) of this section, the auditor of public accounts shall bill the county for the expenses incurred pursuant to subsection (2) of this section. A copy of this bill shall be forwarded to the commissioner of the executive department for finance and administration. *Should the fiscal court within sixty (60) days following receipt of said bill determine the charge to be excessive or otherwise improper it shall submit its objection to the commissioner of the executive department for finance and administration and to the state treasurer for resolution of the controversy in accordance with subsection (4) of this section.* If the amount billed has not been paid within ninety (90) days from date of billing, the auditor shall notify the commissioner of the executive department for finance and administration and the commissioner of revenue who shall cause said amount to be deducted from the next payment or return of moneys provided by KRS 47.110 and 431.110 by the state to the county or counties. Deductions shall continue until the total amount due the auditor's office has been paid. All moneys received pursuant to this section shall be credited to the trust and agency account of the auditor of public accounts. *When an objection to the bill has been filed with the commissioner of the executive department for finance and administration and the state treasurer in accordance with subsection (4) of this section the ninety (90) day period shall not begin to run until the entry of the final decision.*

(4) Any controversy over the amount of the bill for the actual expenses incurred shall be submitted *by the fiscal court* to the commissioner of the executive department for finance and administration and the state treasurer for a decision as to the proper amount. In the event that these two (2) arbitrators fail to agree, then the controversy shall be submitted to the attorney general, whose decision shall be final.

The Committee on Judiciary-Statutes reported **HB 93,** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 93, AN ACT relating to eminent domain.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 416 IS CREATED TO READ AS FOLLOWS:
This Act shall be known as the "Eminent Domain Act of Kentucky."

SECTION 2. A NEW SECTION OF KRS CHAPTER 416 IS CREATED TO READ AS FOLLOWS:

(1) "Condemn" means to take private property for a public purpose under the right of eminent domain;

(2) "Condemnor" shall mean and include any person, corporation or entity, including the commonwealth of Kentucky, its agencies and departments, county, municipality and taxing district authorized and empowered by law to exercise the right of eminent domain;

(3) "Condemnee" means the owner of the property interest being taken;

(4) "Court" means the circuit court;

(5) "Property" means real or personal property, or both, of any nature or kind that is subject to condemnation;

(6) "Eminent domain" means the right of the commonwealth to take for a public purpose and shall include the right of private persons, corporations or business entities to do so under authority of law.

SECTION 3. A NEW SECTION OF KRS CHAPTER 416 IS CREATED TO READ AS FOLLOWS:

Whenever any condemnor cannot, by agreement with the owner thereof, acquire the property right, privileges or easements needed for any of the uses or purposes for which the condemnor is authorized by law, to exercise its right of eminent domain, the condemnor may condemn such property, property rights, privileges or easements pursuant to the provisions of this Act. It is not a prerequisite to an action to attempt to agree with an owner who is unknown or who, after reasonable effort, cannot be found within the state or with an owner who is under a disability.

SECTION 4. A NEW SECTION OF KRS CHAPTER 416 IS CREATED TO READ AS FOLLOWS:

Prior to the filing of the petition to condemn, the condemnor or its employes or agents shall have the right to enter upon any land or improvement which it has the power to condemn, in order to make studies, surveys, tests, sounding and appraisals, provided that the owner of the land or the party in whose name the property is assessed has been notified ten days prior to entry on the property. Any actual damages sustained by the owner of a property interest in the property entered upon by the condemnor shall be paid by the condemnor and shall be assessed by the court or the court may refer the matter to commissioners to ascertain and assess the damages sustained by the condemnee, which award shall be subject to appeal.

SECTION 5. A NEW SECTION OF KRS CHAPTER 416 IS CREATED TO READ AS FOLLOWS:

A condemnor seeking to condemn property or the use and occupation thereof, shall file a verified petition in the circuit court of the county in which all or the greater portion of the property sought to be condemned is located, which petition shall state that it is filed under the provisions of this Act and shall contain, in substance:

(1) Allegations sufficient to show that the petitioner is entitled, under the provisions of applicable law, to exercise the right of eminent domain and to condemn the property, or the use and occupation thereof, sought to be taken in such proceedings;

(2) A particular description of the property and the use and occupation thereof sought to be condemned; and

(3) An application to the court to appoint commissioners to award the amount of compensation the owner of the property sought to be condemned is entitled to receive therefor.

SECTION 6. A NEW SECTION OF KRS CHAPTER 416 IS CREATED TO READ AS FOLLOWS:

(1) The circuit court, or in the absence of the circuit judge from the county, the circuit court clerk, shall appoint as commissioners three impartial housekeepers of the county who are owners of land. They shall be sworn to faithfully and impartially discharge their duties under this section. The commissioners shall view the land or material sought to be condemned and award to the owner or owners such a sum as will fairly represent the reduction in the market value of the entire property, all of or a portion of which is sought to be condemned, said sum being the difference between the market value of the entire property immediately before the taking and the market value of the remainder of the property immediately after the taking thereof, together with the fair rental value of any temporary easements sought to be condemned. Within fifteen days from the date of their appointment, they shall return a written report to the office of the circuit court, stating the above values in their award and shall describe in their report the property sought to be condemned. They shall be allowed a reasonable fee which shall be taxed as costs.

(2) In the event any person appointed to serve as commissioner fails, refuses or becomes incapable of acting, the court, or judge thereof, shall forthwith appoint a qualified person to fill the vacancy. A majority of the commissioners appointed and qualified have the power to act and to make and sign the award and report. If a majority of the commissioners do not agree on a decision, three new commissioners shall be appointed by the court on application by any of the parties to the action.

SECTION 7. A NEW SECTION OF KRS CHAPTER 416 IS CREATED TO READ AS FOLLOWS:

Upon the application of the petitioner, and the filing of any necessary affidavits, the clerk of the court shall issue process against the owner to show cause why the petitioner does not have the right to condemn the lands, or the use and occupation thereof sought to be condemned. The summons shall contain a statement of the amount of the award and shall state that an answer or other pleading, if any, must be filed within twenty days from date of service. The clerk shall make such orders as to nonresidents and persons under disability as are required by the statutes and Rules of Civil Procedure in actions against them in circuit courts.

SECTION 8. A NEW SECTION OF KRS CHAPTER 416 IS CREATED TO READ AS FOLLOWS:

Any answer or other pleading filed by the owner in response to the summons shall be filed on or before the twenty (20) days after date of service and shall be confined solely to the question of the right of the petitioner to condemn the property sought to be condemned, but without prejudice to the owner's right to except from the amount of the compensation awarded in the manner provided in this Act.

SECTION 9. A NEW SECTION OF KRS CHAPTER 416 IS CREATED TO READ AS FOLLOWS:

(1) After the owner has been summoned twenty (20) days, the court shall examine the report of the commissioners to determine whether it conforms to the provisions of Section 6 of this Act. If the report of the commissioners is not in the proper form the court shall require the commissioners to make such corrections as are necessary.

(2) If no answer or other pleading is filed by the owner or owners putting in issue the right of the petitioner to condemn the property or the use and occupation thereof sought to be condemned, the court shall enter an interlocutory judgment which shall contain, in substance:

(a) A finding that the petitioner has the right, under the provisions of this Act and other applicable law to condemn the property or the use and occupation thereof;

(b) A finding that the report of the commissioners conforms to the provisions of Section 6 of this Act;

(c) An authorization to take possession of the property for the purposes and under the conditions and limitations, if any, set forth in the petition upon payment to the owner or to the clerk of the court the amount of the compensation awarded by the commissioners;

(d) Proper provision for the conveyance of the title to the land and material, to the extent condemned, as adjudged therein in the event no exception is taken as provided in subsection (1) of Section 10 of this Act.

(3) Any exception from such interlocutory judgment by either party or both parties shall be confined solely to exceptions to the amount of compensation awarded by the commissioners.

(4) If the owner has filed answer or pleading putting in issue the right of the petitioner to condemn the property or use and occupation thereof sought to be condemned, the court shall, without intervention of jury, proceed forthwith to hear and determine whether or not the petitioner has such right. If the court determines that petitioner has such rights, an interlocutory judgment, as provided for in subsection (2) of this Section, shall be entered. If the court determines that petitioner does not have such right, it shall enter a final judgment which shall contain, in substance:

(a) A finding that the report of the commissioners conforms to the provisions of Section 6 of this Act;

(b) A finding that the petitioner is not authorized to condemn the property or the use and occupation thereof for the purposes and under the conditions and limitations set forth in the petition, stating the particular ground or grounds on which the petitioner is not so authorized;

(c) An order dismissing the petition and directing the petitioner to pay all costs.

SECTION 10. A NEW SECTION OF KRS CHAPTER 416 IS CREATED TO READ AS FOLLOWS:

(1) Within thirty (30) days from the date of entry of an interlocutory judgment authorizing the petitioner to take possession of the property, exceptions may be filed by either party or both parties by filing with the clerk of the circuit court and serving upon the other party or parties a statement of exceptions, which statement shall contain any exceptions the party has to the award made by the commissioners. The statement of exceptions shall be tried, but shall be limited to the questions which are raised in the original statements of the exceptions, or as amended, but the owner shall not be permitted to raise any question, nor shall the court reconsider any question so raised, concerning the right of the petitioner to condemn the property. All questions of fact pertaining to the amount of compensation to the owner, or owners, shall be determined by a jury, which jury on the motion of either party shall be sent by the court, in the charge of the sheriff, to view the land and material. After a jury trial, and if possession previously has not been taken by the condemnor of the land and material condemned, it may do so upon the payment to the owner or to the clerk of the circuit court the amount of the compensation adjudged by the circuit court to be due the owner.

(2) Appeals may be taken to the Court of Appeals from the final judgment of the circuit court as in other cases except that an appeal by the owner shall not operate as a supersedeas.

(3) The payment by the condemnor of the amount of compensation awarded and the taking possession of the lands and material condemned shall not prejudice its right to except from the award of the commissioners or the judgment of any court, nor shall the acceptance by the owner of the amount of the compensation awarded prejudice his right to except from the award of the commissioners or the judgment of any court.

(4) All costs in the circuit court shall be adjudged against the condemnor.

(5) If the condemnor takes possession of the property condemned and the amount of compensation is thereafter increased over that awarded by the commissioners, the condemnor shall pay interest to the owner at the rate of six percent (6%) per annum upon the amount of such increase from the date the condemnor took possession of the property. If the condemnor takes possession of the property condemned and the amount of compensation is thereafter decreased below that awarded by the commissioners, the condemnor shall be entitled to a personal judgment against the owner for the amount of the decrease plus interest at the rate of six percent (6%) per annum from the date the owner accepted the amount of compensation the condemnor paid into court or to the owner. If the owner at all times refuses to accept the payment tendered by the

condemnor, no interest shall be allowed in the judgment against the owner for the amount of the decrease.

(6) Upon the final determination of exceptions, or upon expiration of thirty (30) days from entry of the interlocutory judgment if no exceptions are filed, the circuit court shall make such orders as may be proper for the conveyance of the title to the extent condemned, to the property, and shall enter such final judgment as may be appropriate.

SECTION 11. A NEW SECTION OF KRS CHAPTER 416 IS CREATED TO READ AS FOLLOWS:

All money paid into court or paid or transferred to the clerk of a court under the provisions of this Act shall be received by the clerk of the court and held subject to the order of the court, for which the clerk and his sureties on his official bond shall be responsible to the persons entitled thereto.

SECTION 12. A NEW SECTION OF KRS CHAPTER 416 IS CREATED TO READ AS FOLLOWS:

Where there are conflicting claimants to the land sought to be condemned and all such parties are before the court, each claimant, for the purposes of the condemnation proceeding only, shall be deemed to be an owner, and the procedure for the condemnation of the land shall be as provided in this Act except that, before the condemnor shall be entitled to take possession of the land, it shall be required to pay the compensation awarded therein to the circuit court clerk to be held for the benefit of, and paid over to such persons as may thereafter be determined to be entitled to receive it. In such cases, the claimants may have their rights determined in a separate action, but the filing of such action or its pendency shall in no wise stay or delay said condemnation proceedings.

SECTION 13. A NEW SECTION OF KRS CHAPTER 416 IS CREATED TO READ AS FOLLOWS:

All proceedings under this Act shall be governed by the provisions of the Rules of Civil Procedure except where the provisions of this Act specifically or by necessary implication provide otherwise.

SECTION 14. A NEW SECTION OF KRS CHAPTER 416 IS CREATED TO READ AS FOLLOWS:

(1) In all actions for the condemnation of lands under the provisions of this Act, except temporary easements, there shall be awarded to the landowners as compensation such a sum as will fairly represent the difference between the fair market value of the entire tract, all or a portion of which is sought to be condemned, immediately before the taking and the fair market value of the remainder thereof immediately after the taking, including in the remainder all rights which the landowner may retain in the lands sought to be condemned where less than the fee simple interest therein is taken, together with the fair rental value of any temporary easements sought to be condemned.

(2) Any change in the fair market value prior to the date of condemnation which the condemnor or condemnee establishes was substantially due to the general knowledge of the imminence of condemnation shall be disregarded in determining fair market value. The taking date for valuation purposes shall be either the date the condemnor takes the land, or the date of the trial of the issue of just compensation, whichever occurs first.

SECTION 15. A NEW SECTION OF KRS CHAPTER 416 IS CREATED TO READ AS FOLLOWS:

(1) Any property which has been acquired through condemnation shall be developed within a period of five years for the purpose for which it was condemned. The failure of the condemnor to so develop shall entitle the condemnee landowner to repurchase the property at the price the condemnor paid to the landowner for the property. The person from whom the land is taken by condemnation may reacquire the land as aforementioned by application to a court of competent jurisdiction, if such procedure is necessary and may recover his costs and reasonable attorneys' fees necessary to reacquire the land.

(2) If the property is not developed within a period of five years pursuant to the provisions of this Section, the condemnor may apply to a court of competent jurisdiction to extend the period of time before which the condemnee landowner shall be entitled to reacquire the property condemned. The court shall determine as a matter of law whether to grant such extension and the period of time for which the extension shall be granted.

Section 16. KRS 36.070 is amended to read as follows:

The facilities division shall be headed by a director experienced in the administration of real property. The division may make contracts, acquire real and personal property by gift, purchase, or by condemnation in the manner prescribed in *the Eminent Domain Act of Kentucky* [KRS 416.120], and may do all things necessary to perform its duties under KRS 36.070 to 36.090.

Section 17. KRS 36.080 is amended to read as follows:

(1) The facilities division shall provide adequate armories, buildings and grounds for the Kentucky army and air national guard for its purposes of drill, instruction and administration and for the safekeeping of public property of the state and the United States issued to or for the use of the Kentucky national guard.

(2) The facilities division may, either alone or in cooperation with the United States government, counties, cities, private corporations, voluntary unincorporated associations or individuals, construct, or acquire by purchase, contract, lease, gift, donations, or by condemnation in the manner prescribed in *the Eminent Domain Act of Kentucky* [KRS 416.120], armories, buildings or grounds suitable for drill, instruction and administration and the safekeeping of public property, and make additions and improvements in or to such armories and facilities. The division may, either alone or with the like cooperation of others, provide heat, light, water, telephone service and other costs of operation and maintenance, including insurance.

(3) The amounts to be spent for the construction, acquisition, maintenance and rental of armories shall be wholly within the discretion of the adjutant general.

Section 18. KRS 36.090 is amended to read as follows:

(1) The fiscal court of any county and the governing body of any city wherein a unit of the Kentucky national guard is established may, either severally or acting jointly with each other or with the facilities division, construct, or acquire by purchase, contract, lease, gift, donation, or by condemnation in the manner prescribed in *the Eminent Domain Act of Kentucky* [KRS 416.120], grounds, buildings, and facilities suitable for national guard and community purposes. The buildings or the plans and specifications therefor must first be approved by the facilities division as suitable for use as armories by the national guard units in the county or city, and the fiscal court or governing body of the city must have first contracted with the facilities division for the use of the building as an armory by the national guard units upon terms consistent with KRS 36.070 to KRS 36.090.

(2) For the purpose of providing necessary funds for the acquisition or construction of the buildings and grounds, and the cost of maintenance and operation thereof, the fiscal court or governing body of the city may annually levy and collect a tax not exceeding ten cents (10¢) on each one hundred dollars ($100) worth of taxable property in the county or city, as determined by the last regular assessment for county or city taxes. If funds received from donations or from earnings from the building, together with rentals received from the facilities division, are adequate to provide for all expenses of operation and maintenance, the tax levies may be withheld and appropriated to the general expense fund of the county or city. If any county has, under pre-existing laws, acquired or constructed buildings and grounds suitable for public assemblages, conventions, exhibitions and entertainments, and also for armory purposes, and shall contract with the facilities division for the use thereof by national guard units upon terms consistent with KRS 36.070 to KRS 36.090, the fiscal court of the county may levy and collect necessary taxes, not exceeding ten cents (10¢) on each one hundred dollars ($100) worth of taxable property, for the payment of expenses of operation and maintenance.

Section 19. KRS 56.463 is amended to read as follows:

The department shall have the power and duty:

(1) To determine the comparative needs and demands of the various state agencies for acquiring real estate and for building projects.

(2) To purchase or otherwise acquire all real property determined to be needed for state use and upon the approval of the commissioner of the executive department for finance and administration as to the determination of need and as to the action of purchase or other acquisition, except as provided in KRS chapters 175, 176, 177, and 180. All such acquisitions of real property or interests therein shall be made in accordance with KRS 45.360.

(3) To sell or otherwise dispose of all property, including any interest in real property, of the state that is not needed or has become unsuitable for public use or would be more suitable consistent with the public interest for some other use as determined by the commissioner of the executive department for finance and administration. All such sales or other disposition shall be made in accordance with KRS 45.360.

(4) (a) To control the use of any real property owned or otherwise held by the commonwealth, or any state agency, and to determine for what periods of time and for what purposes any state agency may use the same, including the agency for whose use it was initially acquired or improved, and to determine what appropriate uses shall be made of such real property during periods that the department finds the same is not required for the purposes of any particular state agency.

(b) To determine the housing and furnishings needs of the various state agencies located in Frankfort and to establish and put into effect a permanent program for housing them. The department is also authorized and directed to allocate office space and furnishings in existing public buildings located in Frankfort, exclusive of the third and fourth floors of the new state capitol, according to the needs of the various agencies and when necessary to provide additional office space and furnishings in Frankfort under any building program the department deems most advisable and economical for the state. The permanent housing program shall include provisions for housing the general assembly and its related agencies, including the legislative research commission, and its subcommittees, the executive offices, the Court of Appeals and the clerk of the Court of Appeals, the department of law and the law library, in the new state capitol, provided the general assembly and the legislative research commission shall have complete control and exclusive use of the third and fourth floors of the new state capitol. If there be any additional space in the capitol, it shall be assigned to agencies whose activities are most closely related to the agencies directed to be located permanently in the capitol.

(5) To acquire, by condemnation in *the* [any] manner provided in *the Eminent Domain Act of Kentucky* [KRS chapter 416, or KRS 177.081 to 177.089], any real estate necessary for use by the state or by any state agency, when the department is unable to agree with the owner thereof on a price for such real estate.

(6) To lease any real property, or any interest in such real property, owned by the state or any agency thereof, in accordance with KRS 45.360.

(7) To provide for and adopt such plans and specifications as may be necessary, to advertise for and receive bids for any expenditures proposed to be made, to award contracts for the purpose authorized, to supervise construction and make such changes and revisions in plans and specifications or in construction as may become necessary, and generally to do any and all other things as may become necessary or expedient in order to effectively fulfill and carry out the purposes of this chapter, including the right to employ such clerks, engineers, statisticians, architects or other persons required to be employed in order to fulfill the functions of the commonwealth relating to state property and buildings provided in KRS 56.450 to 56.550.

(8) To adopt such rules and regulations as may be necessary to govern the acquisition, control, and disposition of the real property to which this section is applicable.

Section 20. KRS 58.140 is amended to read as follows:

In the event a governmental agency is unable to acquire, by purchase or agreement, any real property deemed necessary for the purposes of a public project, such agency may acquire the same by condemnation. The procedure for condemnation shall be as provided in *the Eminent Domain Act of Kentucky* [KRS 416.010 to 416.080, or as provided in KRS 416.120, whichever procedure is selected by the agency].

Section 21. KRS 58.220 is amended to read as follows:

The authority may:

(1) Construct, reconstruct, maintain, repair, operate, and regulate projects at such locations within the city of Frankfort, Kentucky, as may be determined by the authority;

(2) Acquire any interests in real property pursuant to the condemnation procedures of *the Eminent Domain Act of Kentucky* [KRS chapter 416 or 177.081 to 177.089];

(3) Notwithstanding KRS chapter 56, the authority may issue revenue bonds payable solely from the charges, revenues, rentals, and other funds pledged for their payment, for the purpose of paying all or any part of the cost of any project or for the acquisition of property;

(4) Sell any building, structure, facility or any interests in land to the commonwealth of Kentucky, the federal, city, or county government, or any person or corporation;

(5) Lease any interest in real property, any building, facility, or structure to the commonwealth of Kentucky, the federal, city, or county government or to any person or corporation;

(6) Fix and revise from time to time the charges and rent payments which will be paid by the different lessees for the use of the land, buildings and parking facilities;

(7) Combine for financing purposes any two (2) or more projects;

(8) Establish and enforce rules, specifications, and regulations for the construction and use of any project, except during any period when such powers are assigned to a lessee pursuant to a lease agreement;

(9) Notwithstanding KRS chapter 56, to acquire and hold in the name of the authority real and personal property in the exercise of its powers and the performance of its functions and duties under KRS 58.210 to 58.315, and to dispose of these interests in property;

(10) Make and enter into such contracts and agreements with the commonwealth of Kentucky or any federal, city, or county government or other person or corporation as may be necessary or incidental to the effectiveness of a well-planned complex;

(11) Employ consulting engineers, attorneys, accountants, construction and financial experts, superintendents, managers, and such other employes and agents as may be necessary in the judgment of the authority, and to fix their compensation;

(12) Receive and accept from the commonwealth, the department, any federal agency, and the city or county, grants for or in aid of the construction of any project, and receive and accept aid or contributions from any source of either money, property, labor or other things of value, to be held, used and applied for the purposes for which such grants and contributions may be made; and

(13) Do all acts necessary and proper to carry out the powers expressly granted in KRS 58.210 to 58.315.

Section 22. KRS 65.530 is amended to read as follows:

(1) The purposes of the authority shall be to establish, maintain, operate and expand necessary and proper riverport and river navigation facilities, and to acquire and develop property, or rights therein within the economic environs of the riverport or proposed riverport to attract directly or indirectly river-oriented

industry. It shall have the duty and such powers as may be necessary or desirable to promote and develop navigation, river transportation, riverports, and riverport facilities, and to attract industrial or commercial operations to the property held as industrial parks.

(2) The authority shall establish and fix reasonable rates, charges and fees for the use of the riverport facilities which shall be published in a newspaper of general circulation in the county in which the riverport is located. In fixing such rates, charges or fees the authority may take into consideration, among other factors, the total capital investment of the authority, the revenue needed properly to maintain such facilities, the revenue needed properly to expand the riverport and its facilities, the portion of the facilities utilized by the licensee or contracting party and its customers and the volume and type of business conducted. Any party aggrieved by the rates, charges or fees may appeal from the action of the authority to the circuit court of the county within which the authority operates, within ninety (90) days from the date that the authority finally publishes such rates, charges or fees and gives notice of same to the contracting party or licensee. The circuit court may hear evidence and determine whether or not the rates, charges or fees are, or are not, reasonable in amount. Appeal from the judgment of the circuit court may be prosecuted as any other civil appeal.

(3) The authority shall also have power, from time to time, to fix rates, charges or fees by contract, or by publishing general rates, charges or fees for commercial vendors, concessionaires or other persons for the use or occupancy of riverport facilities under such terms and conditions as it may deem to be in the best interest of maintaining, operating or expanding necessary riverport facilities, and the public use thereof.

(4) The authority may acquire by contract, lease, purchase, option, gift, condemnation or otherwise any real or personal property, or rights therein, necessary or suitable for establishing, developing, operating or expanding riverports, riverport facilities, water navigation facilities, including spoilage areas for the disposal of materials dredged from river bottoms in an effort to improve the navigability of rivers, and industrial parks or sites within the economic environs of the riverport or proposed riverport. The authority may erect, equip, operate and maintain on such property buildings and equipment necessary and proper for riverport and water navigation facilities. The authority may dispose of any real or personal property, or rights therein, which in the opinion of the authority is not needed for use as riverport or water navigation facilities, or use as industrial parks or sites. The authority may lease, sell, convey, or assign its interest in land owned, optioned, or otherwise held by it to any person for the purpose of constructing and/or operating any industrial or commercial facility or for the purpose of acting as the authority's agent or licensee in effectively carrying out any of its powers and duties.

(5) With the consent of the legislative body of the governmental unit in which the property to be condemned is located, the authority may by resolution, reciting that the property cannot be acquired by purchase or agreement and is needed for riverport, water navigation, or industrial purposes in accordance with the powers set forth in subsection (4) of this section, direct the condemnation of any property. The procedure for condemnation shall conform to the procedure set out in *the Eminent Domain Act of Kentucky* [KRS 58.140]

(6) The authority may apply for, receive authorization for, establish and operate a foreign trade zone, as permitted by 19 U. S. C. section 81, provided approval is obtained from the Kentucky port and river development commission.

Section 23. KRS 67.085 is amended to read as follows:

Whenever the fiscal court of any county deems it to be in the best interest of the county to acquire the fee simple title to any real property within such county for any administrative or governmental purpose in addition to those now provided for by law and the fiscal court is unable to contract with the owner of the land, required for such purpose, for its purchase or to acquire the same by gift, the land may be condemned under the procedure set forth in *the Eminent Domain Act of Kentucky* [KRS 416.110], and said fiscal court may appropriate funds to pay for said real property.

Section 24. KRS 74.090 is amended to read as follows:

If it becomes necessary to acquire a right of way or land, and it cannot be acquired by purchase, the commission may condemn the needed property in the manner provided in *the Eminent Domain Act of Kentucky* [KRS 416.010 to 416.080]. The owners of land sought to be condemned shall be made parties to the proceeding. Any damage awarded shall be paid by the commission out of the first funds available.

Section 25. KRS 76.080 is amended to read as follows:

The district created under the provisions of KRS 76.010 to 76.210 is empowered:

(1) To have jurisdiction, control, possession, and supervision of the existing sewer and drainage system of the city of the first or second class; to maintain, operate, reconstruct, and improve the same as a comprehensive sewer and drainage system; to make additions, betterments, and extensions thereto within the district area; and to have all the rights, privileges, and jurisdiction necessary or proper for carrying such powers into execution. No enumeration of powers in KRS 76.010 to 76.210 shall operate to restrict the

meaning of this general grant of power or to exclude other powers comprehended within this general grant.

(2) To prepare or cause to be prepared and to be thereafter revised and adopted, plans, designs, and estimates of costs, of a system of trunk, intercepting, connecting, lateral, and outlet sewers, storm water drains, pumping and ventilating stations, disposal and treatment plants and works, and all other appliances and structures which in the judgment of the board will provide an effective and advantageous means for relieving the district area from inadequate sanitary and storm water drainage and from inadequate sanitary disposal and treatment of the sewage thereof, or such sections or parts of such system of the district area as the board may from time to time deem proper or convenient to construct, consistent with the plans and purposes of KRS 76.010 to 76.210, and may take all steps the board deems proper and necessary to effect the purposes of KRS 76.010 to 76.210.

(3) To construct any additions, betterments and extensions to the facilities of the district, within or without the district area, and to construct any construction subdistrict facilities or additions, betterments and extensions thereto, within or without the district area, by contract or under, through, or by means of its own officers, agents and employes. No construction or extensions shall be started within the city of the first or second class until, firstly, the city's director of works, and secondly, its board of aldermen have approved the plans. No construction or extensions shall be started in any city of the second, third, or fourth class until the governing authorities of such city or cities have approved the plans. No construction or extensions shall be started in any other part of the county until the plans have been approved, firstly, by the county engineer and, secondly, by the fiscal court.

(4) To establish, construct, operate, and maintain, as a part of the sewer and drainage system of the district, sewage treatment and disposal plants and systems and all the appurtenances and appliances thereunto belonging. The sewage treatment and disposal plants may be located in the city, or beyond the limits of the city in the county in which the city is located, as the board deems expedient.

(5) To acquire and hold the personal property the board deems necessary and proper for carrying out the corporate purposes of the district and to dispose of personal property when the district has no further need therefor.

(6) To acquire by purchase, gift, lease, or by condemnation, real property or any interest, right, easement, or privilege therein, as the board determines necessary, proper and convenient for the corporate purposes of the district, and to use the same so long as its corporate existence continues, and same is necessary or useful for the corporate purposes of the district. Condemnation proceedings may be instituted in the name of the district pursuant to a resolution of the board declaring the necessity for the taking, and the method of condemnation shall be the same as provided in *the Eminent Domain Act of Kentucky* [KRS 416.120] When the board by resolution declares that any real property which it has acquired, or any interest therein, is no longer necessary or useful for the corporate purposes of the district, the real property and interest therein may be disposed of.

(7) To make bylaws and agreements for the management and regulation of its affairs and for the regulation of the use of property under its control and for the establishment and collection of sewer rates, rentals and charges, which sewer rates, rentals and charges, applicable within the limits of a city of the first or second class, shall be subject to the approval, supervision and control of the legislative body of the city as hereinafter provided.

(8) To make contracts and execute all instruments necessary or convenient in the premises.

(9) To borrow money and to issue negotiable bonds and to provide for the rights of the holders thereof.

(10) To fix and collect sewer rates, rentals, and other charges, for services rendered by the facilities of the district, which sewer rates, rentals, and other charges, applicable within the limits of a city of the first or second class, shall be subject to the approval, supervision and control of the legislative body of such city as hereinafter provided.

(11) To enter on any lands, waters and premises for the purpose of making surveys, and soundings and examinations.

(12) To approve or revise the plans and designs of all trunk, intercepting, connecting, lateral and outlet sewers, storm water drains, pumping and ventilating stations, disposal and treatment plants and works proposed to be constructed, altered or reconstructed by any other person or corporation, private or public, in the whole county, in order to insure that such proposed construction, alteration or reconstruction shall conform to and be a part of a comprehensive sewer and drainage system for the said county. No sewers, drains, pumping and ventilating stations, or disposal and treatment plants or works shall be constructed, altered or reconstructed without approval by the board of the district. Any such work shall be subject to inspection and supervision of the district.

Section 26. KRS 76.110 is amended to read as follows:

(1) The district shall have the power to acquire by purchase, gift or eminent domain proceedings, the fee or such right, title, interest or easement, in such lands as may be deemed by the district necessary for any of the purposes mentioned in KRS 76.010 to 76.281, whether within or without the district area or within or

without a construction subdistrict and any personal property necessary for the purpose of the district. Such lands or interest therein, or personal property may be so acquired whether or not the same are owned or held for public use by corporations, associations, or other persons having the power of eminent domain, or otherwise held or used for public purposes. But nothing in this chapter shall be construed to confer upon or recognize in the district any power to acquire by agreement, purchase or gift, or by eminent domain proceedings, any fee, right, title, interest or easement in property under the jurisdiction of the department of highways or included within the boundaries of any sanitation district organized under KRS chapter 220, except necessary rights of way for trunk sewers through such sanitation districts. Forthwith upon the acquisition of any such fee, right, title, interest or easement, or personal property, the same shall become dedicated to the uses and purposes of the district.

(2) The method of condemnation of such property shall be *pursuant to the Eminent Domain Act of Kentucky* [(a) as provided in KRS 416.120, (b) as provided in KRS 76.080 (6), or (c) as provided in KRS 416.230 to 416.310 inclusive or as hereinafter provided].

(3) When a district has filed a proceeding to condemn land or any interest therein or personal property, pursuant to the provisions of *the Eminent Domain Act of Kentucky* [KRS 416.230 to 416.310], and the board of such district shall determine that the necessity for procuring possession of the property is urgent, it may pass a resolution, at the time that said condemnation is authorized or at any time thereafter for a declaration of taking, declaring that said lands are to be taken for the use of a metropolitan sewer district. Said declaration of taking shall contain, or have annexed thereto, the following:

(a) A statement of the authority under which and, the public use for which, said lands are taken;
(b) A description of the lands taken sufficient for identification thereof;
(c) A statement of the estate or interest in said lands taken for said public use;
(d) A plat showing the lands taken.

(4) At any time after the report of the commissioners has been made, the district may file said declaration of taking and make a deposit with the clerk of the court of the sum of money stated in the award of the commissioners appointed. Title to said lands in fee simple or such lesser estate as is specified in said declaration or to said personal property shall then vest in such metropolitan sewer district, and the right to just compensation for said land or interest therein or personal property shall vest in the persons entitled thereto. Said compensation shall be ascertained and awarded in said proceeding as otherwise provided in *the Eminent Domain Act of Kentucky* [KRS 416.230 to 416.310 inclusive].

Section 27. KRS 80.150 is amended to read as follows:

If it becomes necessary to condemn property for the purpose of constructing any low-cost housing project, or securing rights of way leading thereto, the authority may, by resolution reciting the need, order the condemnation of any land or improvement or interest in land, that it deems necessary. Proceedings for the condemnation shall be in the circuit court of the county in which the property lies, and shall be conducted in the name of the authority. The city attorney shall conduct the proceedings, for the authority. The judgment of the court shall vest title in fee simple to the property condemned in the authority. In all other respects the form and manner of the proceedings shall be the same as that provided in *the Eminent Domain Act of Kentucky* [KRS 416.120]. No payment or award in any condemnation proceedings, or for the cost or expense of the proceedings, shall be made except from funds provided under the authority of this chapter.

Section 28. KRS 80.540 is amended to read as follows:

An authority shall have the right to acquire by condemnation any real property which it may deem necessary for its purposes under KRS 80.310 to 80.610 after the adoption by it of a resolution declaring that the acquisition of the real property described therein is necessary for such purposes. Proceedings for such condemnation shall be in *accordance with the Eminent Domain Act of Kentucky* [the circuit court of the county in which the property lies,] and shall be conducted in the name of the authority by the attorney designated by the authority, and the judgment of the court shall vest title in fee simple to the property condemned in the authority. [In all other respects, the form and manner of the proceedings shall be the same as that provided for the condemnation of land for road purposes by fiscal courts.]

Section 29. KRS 82.180 is amended to read as follows:

Whenever any property authorized to be acquired under KRS 82.105 to 82.120 cannot be acquired by purchase upon terms which a city, or an agency thereof designated to act for it, deems to be reasonable, or whenever the owner is legally incapacitated, absent, unknown, or unable to convey valid title, the city, or the agency acting therefor, is hereby authorized and empowered to acquire such property by condemnation or the exercise of the power of eminent domain in the manner prescribed by *the Eminent Domain Act of Kentucky* [KRS 99.420. The term "agency" used in KRS 99.420 shall be deemed to mean and include the city itself, or an agency of the city designated to act for it].

Section 30. KRS 85.120 is amended to read as follows:

The common council, subject to the limitations imposed by the constitution and statutes, may:

(1) Contract debts, borrow money, and control the finances and property of the city;

(2) By ordinance, appropriate money and provide for the payment of the debts and expenses of the city;

(3) By ordinance, provide for inclosing, improving and regulating all public grounds belonging to the city, in or out of the city limits;

(4) Acquire the fee simple title to real estate by eminent domain proceedings in all cases where it is necessary to acquire real estate for public purposes, or to protect the city from public nuisance, the procedure to be the same as provided in *the Eminent Domain Act of Kentucky* [KRS 416.010 to 416.080];

(5) By ordinance, impose, for violation of city ordinances, any fine, forfeiture, imprisonment or penalty that may be imposed without an indictment by a grand jury, but not less than the fine, forfeiture, imprisonment or penalty imposed by statute for the same offense, and may provide, by ordinance, for the recovery and appropriation of such fines, forfeitures and penalties;

(6) By ordinance, make police regulations to secure and protect the general health, comfort, convenience, morals and safety of the public;

(7) Enact ordinances to carry out the full intent and meaning of the statutes relating to cities of the third class, and to accomplish the object of the incorporation of those cities.

Section 31. KRS 86.110 is amended to read as follows:

The city council may, within the city:

(1) Borrow money for making public improvements, upon the credit of the city, and pledge the revenue for the payment thereof;

(2) Appropriate money to provide for the payment of the debts and expenses of the city;

(3) Purchase, upon a vote of two-thirds (2/3) of the members of the council, any real estate that it considers necessary for city purposes;

(4) Provide for the purchase of all personal property necessary for city purposes;

(5) Sell and dispose of any city property, upon a vote of two-thirds (2/3) of the members of the council;

(6) Erect a workhouse, poorhouse, station house and house of correction, and provide for their maintenance and regulation, and for the maintenance and government of the inmates;

(7) Provide, maintain and regulate a public burial ground;

(8) Declare by ordinance that property is needed for municipal purposes and for the purposes mentioned in subsections (6) and (7) of this section, upon the passage of which ordinance the proper city authorities may, if the compensation for the property cannot be agreed upon, proceed to condemn the property in the manner provided by *the Eminent Domain Act of Kentucky* [KRS 416.010 to 416.080].

(9) Erect market houses, and provide for their government and regulation;

(10) Fix by ordinance the penalty for the violation of any provision of the laws relating to cities of the fourth class, or of any city ordinance, and enforce the same by warrant or summons;

(11) Enact ordinances, not in conflict with the constitution or statutes, to carry into effect all the powers of the city, and do all things properly belonging to the police of incorporated cities.

Section 32. KRS 87.090 is amended to read as follows:

Whenever property is needed for municipal purposes, and an ordinance is enacted so declaring, the proper authorities of the city may, if compensation therefor cannot be agreed upon, condemn the property in the manner provided in *the Eminent Domain Act of Kentucky* [KRS 416.010 to 416.080].

Section 33. KRS 88.100 is amended to read as follows:

Whenever property is needed for municipal purposes, including the purpose of establishing a cemetery to be owned and managed by the city, or to extend or enlarge a cemetery so owned and managed, and an ordinance is enacted so declaring, the proper authorities of the city may, if compensation therefor cannot be agreed upon, proceed to condemn the property in the manner provided in *the Eminent Domain Act of Kentucky* [KRS 416.010 to 416.080]. Not more than five (5) acres shall be condemned for cemetery purposes in any one (1) proceeding.

Section 34. KRS 93.100 is amended to read as follows:

(1) Except as provided in KRS 93.320, when property is needed for appropriate municipal purposes, within the boundaries of the city or the county in which the city is located, the director of works may, with the consent of the mayor, if the amount is under two thousand dollars ($2,000), or with the consent of the mayor and the city legislative body, if the amount is over two thousand dollars ($2,000), order the condemnation of the property.

(2) The proceeding for the condemnation shall be prosecuted in the name of the city by the city attorney in the manner provided in *the Eminent Domain Act of Kentucky* [KRS 416.120].

(3) Cities of the first class may acquire suitable lands for dumping garbage, and shall keep an open road to and from such lands in repair.

Section 35. KRS 93.320 is amended to read as follows:

(1) When, in the opinion of the director of works, it is reasonably necessary to close, in whole or part, any public way for use for the elimination of grade crossings of public streets with the tracks of steam or electric railroads, as provided in KRS 93.290, he shall certify the necessity and his reasons for the closing to the city legislative body. The city legislative body may then, by ordinance, direct the city attorney to institute action in the circuit court to close the public way or portion designated. All the owners of ground in the squares and lots divided by the public way or portion sought to be closed, and abutting thereon, shall be made defendants in the action.

(2) The action shall proceed as in the case of condemnation of property for other city purposes, as provided in *the Eminent Domain Act of Kentucky* [KRS 416.120], and upon return of the verdict of the jury the court shall enter judgment, discontinuing and closing the public way or portion thereof sought to be closed, and vesting in the city the fee simple title.

(3) The judgment shall take effect upon the payment into court, by the city, of the amount of money named in the verdict, and the taxed costs of the proceedings. The city shall have sixty (60) days in which to make payment, and if it is not made within that time, the closing shall be deemed abandoned, the verdict and judgment set aside, and the proceedings dismissed at the cost of the city without prejudice to any subsequent proceedings.

(4) Whenever it is necessary for the purposes of a grade separation to condemn any property other than a public way, the director of works may order the condemnation of the property, the proceedings to be as provided in *the Eminent Domain Act of Kentucky* [KRS 416.120].

Section 36. KRS 93.352 is amended to read as follows:

Any city of the first class shall have and may exercise all powers necessary or convenient to carry out the purpose of KRS 93.352 to 93.356, which is hereby declared to be the acquisition, creation, and operation in any manner hereinafter provided, under public regulation, of public off-street parking facilities in any such city as a necessary incident to insuring in the public interest the free circulation of traffic in, through and from such city. Such powers shall include, but shall not be limited to the powers enumerated in the following paragraphs (a) to (k) inclusive:

(a) The power to purchase in the manner prescribed in KRS 83.300, and acquire by gift, bequest, devise, or grant, real property, or any interest therein, in any area of any such city in which the director of traffic engineering in such city, subject to the approval of the legislative body of such city, shall have made a determination that public parking facilities are therein required, and to hold, use, and dispose of same in the manner prescribed by law;

(b) The power to condemn, in the manner prescribed in *the Eminent Domain Act of Kentucky* [KRS 93.100], real property, or any interest therein in any area of any such city in which the director of traffic engineering in such city, subject to the approval of the legislative body of such city, shall have made a determination that public parking facilities are therein required, and hold, use, or dispose of same in the manner provided by law; in such condemnation proceedings the city shall obtain a fee simple title and may thereafter dispose of same without working a reverter;

(c) The power to clear and improve, in the manner provided by law, any property acquired under KRS 93.352 to 93.356, and to construct or cause to be constructed thereon such structures and equipment suitable for parking facilities, as the director of traffic engineering, subject to the approval of the legislative body of such city, shall have determined to be necessary;

(d) The power to maintain and operate for parking by the public, of vehicles, any property, or interest in property, constructed or acquired under KRS 93.352 to 93.356;

(e) The power to contract with any corporation, firm, individual, or association, private or public, subject to the provisions of KRS 93.352 to 93.356, for the operation as a public parking facility of any property, or interest in property, constructed or acquired under KRS 93.352 to 93.356, for such period as the director of traffic engineering, subject to the approval of the legislative body of such city, shall determine;

(f) The power to lease to any corporation, firm, individual, or association, private or public, subject to the provisions of KRS 93.352 to 93.356, for the operation thereof as a public parking facility, any property, or interest in property, constructed or acquired under KRS 93.352 to 93.356, for such period as the director of traffic engineering, subject to the approval of the legislative body of such city shall determine;

(g) The power to sell, exchange, transfer, or assign, any property, real or personal, or any interest therein, constructed or acquired under KRS 93.352 to 93.356, whether or not improved, and which the director of traffic engineering, subject to the approval of the legislative body of such city, shall have determined to be no longer necessary or required for the proper achievement of the purposes of KRS 93.352 to 93.356; Provided however, the city may, through the director of traffic engineering, subject to the approval of the legislative body of the city, lease such property or any part thereof for use for commercial purposes that may be in aid of the operation of off-street parking facilities under KRS 93.352 to 93.356;

(h) The power to lease for commercial purposes any part of said property which the city, through the director of traffic engineering, with the approval of the legislative body of the city, shall have determined to be no longer required, or not at that time required, for the proper achievement of the purposes of KRS 93.352 to 93.356;

(i) The power to establish and revise from time to time, schedules of rates to be charged for the use of such public parking facilities operated under KRS 93.352 to 93.356 and to establish, extend, revise, and rescind regulations in regard to the use, operation, and occupancy of any property or interest therein, constructed or acquired under KRS 93.352 to 93.356, to the end that the maintenance, operation, use, and charge for the use of all such property shall be subject to public regulation; the director of traffic engineering, subject to the provisions of KRS 93.352 to 93.356 and subject to the approval of the legislative body of such city, shall establish, extend, revise, and rescind, such schedules and regulations;

(j) The power to engage in or contract for the construction, reconstruction, alteration, repair and maintenance of any public parking facilities operated or to be operated under KRS 93.352 to 93.356, as the director of traffic engineering, subject to the approval of the legislative body of such city, shall determine;

(k) The power to adopt suitable ordinances defining particular areas within the city to be served by and for which off-street parking facilities shall be established under the provisions of KRS 93.352 to 93.356, regulating or prohibiting the parking of motor vehicles upon the streets of any such city within any such area, and providing that the provisions of any such ordinance shall be for the benefit of the holders of revenue bonds issued under the authority of KRS 93.352 to 93.356 and shall be irrepealable so long as any of such bonds shall remain outstanding.

Section 37. KRS 93.930 is amended to read as follows:

(1) Said city may acquire all rights of way necessary to carry out the provisions of KRS 93.880 to 93.950, by gift, purchase or condemnation. All proceedings for the acquisition of rights of way by condemnation shall be had in the manner *provided in the Eminent Domain Act of Kentucky* [similar to that provided by law for condemnation of land for park purposes in any city of the first class]; Provided, however, said city shall have one hundred and twenty (120) days in which to make compensation and payment of the amount of money named in the verdict and judgment, including the costs taxed in the proceedings.

(2) The acquisition of rights of way by condemnation and the improvement of the several arterial highways, or any of them, or parts or sections of them, shall be ordered by ordinance of the legislative body adopted and passed in the same manner as now provided by the charter of cities of the first class for the original construction of ordinary streets. The improvement shall be let and done by contract in the manner now provided for the improvement of ordinary highways and streets.

Section 38. KRS 94.170 is amended to read as follows:

Whenever any city of the third, fourth, fifth or sixth class determines to acquire or construct a sewerage system under the provisions of KRS 94.160, and the city cannot agree with the owner as to the compensation for the sale of any property located either within or without the boundaries of the city that is necessary to complete the system, the city may, after adopting and publishing an ordinance declaring the necessity, condemn and take possession of the property for that purpose in the manner provided in *the Eminent Domain Act of Kentucky* [KRS 416.010 to 416.080].

Section 39. KRS 94.282 is amended to read as follows:

(1) Any city may acquire, maintain and operate a garbage disposal system, together with extensions and necessary appurtenances thereto within or without the limits of the city.

(2) If any such garbage disposal system is acquired from a company having a franchise, such system may be acquired as an electric plant may be acquired under the provisions of *the Eminent Domain Act of Kentucky* [KRS 96.550 to 96.900], except as otherwise provided in KRS 94.283 to 94.287.

Section 40. KRS 94.570 is amended to read as follows:

Whenever it is necessary for the purposes of a grade separation to condemn any property, the city legislative body may order the condemnation of the property in the manner provided in *the Eminent Domain Act of Kentucky* [KRS 94.680 to 94.720]. The proceedings therefor shall be prosecuted in the name of the city by the city solicitor.

Section 41. KRS 94.680 is amended to read as follows:

(1) When, in the opinion of the city legislative body of any city of the second class, land or other property, or right of way or easement over or through any property, is needed by the city to open, extend or widen any public way, to erect any public building or structure, to lay or construct any sewer or sewage disposal plant, or for any other public municipal purpose, either within or beyond the boundaries of the city and in the county in which the city is located, the city legislative body may, by resolution reciting the need, order the condemnation of the land or other property, right of way or easement.

(2) The proceedings for condemnation shall be in *accordance with the Eminent Domain Act of Kentucky* [the circuit court of the county in which the city is situated, and shall be conducted in the name of the city by the city solicitor. The proceedings shall be commenced by filing a petition against all persons having an interest in the property, describing the property, right of way or easement sought to be condemned, upon which summons shall be issued and proceedings carried on as nearly as may be as ordinary actions at law are conducted. Nonresidents and persons under disability shall be proceeded against as provided by the Rules of Civil Procedure. The owners of two (2) or more different properties sought to be condemned for the same purpose may be proceeded against in a single action, or the owners of any piece of property may be proceeded against in a separate action].

Section 42. KRS 94.750 is amended to read as follows:

Any city of the second class shall have all the rights, powers and privileges that are given to cities of the first class by KRS 93.352 to 93.356, as amended. In applying such sections to cities of the second class, any powers given by such sections to the director of works of a city of the first class shall be deemed to be given to the board of public works, superintendent of public works, department of public works or commissioner of public works of the city of the second class, whichever such city shall have, and condemnation procedure shall be as provided in *the Eminent Domain Act of Kentucky* [KRS 94.680 to 94.720] and *KRS* 104.170.

Section 43. KRS 96.080 is amended to read as follows:

Any person constructing, maintaining or operating waterworks or pipelines for the supply of water to a municipality may condemn lands and materials necessary to carry out those purposes, in the manner prescribed in *the Eminent Domain Act of Kentucky* [KRS 416.010 to 416.080].

Section 44. KRS 96.178 is amended to read as follows:

Any board proceeding under KRS 96.171 to 96.188 shall have the right to acquire by the exercise of the power of eminent domain, all lands, easements, rights of way, either upon or under or above the ground, reasonably necessary or desirable in connection with the operation, maintenance, improvement or extension of its electric and water plant. The condemnation or eminent domain proceedings shall be brought in the name of the board, and proceed in the form and manner now prescribed for the condemnation of land by *the Eminent Domain Act of Kentucky* [cities of their respective class].

Section 45. KRS 96.542 is amended to read as follows:

(1) Any city may acquire, maintain and operate an artificial gas system, together with extensions and necessary appurtenances thereto within or without the limits of the city.

(2) If any such artificial gas system is acquired from a company having a franchise, such system may be acquired as an electric plant may be acquired under the provisions of *the Eminent Domain Act of Kentucky* [KRS 96.550 to 96.900], except as otherwise provided in KRS 96.543 to 96.546.

Section 46. KRS 96.547 is amended to read as follows:

Except as provided in KRS 96.550 to 96.900, any city utility shall have the same rights with respect to condemnation and eminent domain as given corporations and partnerships under KRS 278.502 and KRS 416.130 [and the proceedings governing condemnation under KRS 278.502 shall govern proceedings under this section].

Section 47. KRS 96.590 is amended to read as follows:

(1) Any board proceeding under *the Eminent Domain Act of Kentucky* [KRS 96.550 to 96.900] shall have the right to acquire by the exercise of the power of eminent domain, all lands, easements, rights of way, either upon or under or above the ground, any existing electric plant, or that part of an electric plant within the corporate limits of such city, and any and all real estate, franchise or personal property reasonably necessary or desirable in connection with the construction or operation or maintenance of electric plants or improvements or extensions thereto; and the right of such board to acquire such electric plant and facilities hereby is declared to be a superior and paramount right and superior and paramount to any other public use. Provided, however, That no board, by exercise of the power of eminent domain, shall have the right to acquire any central generating plant or station or substation or transmission lines, dams, or other property or facilities primarily and principally used by any public or private utility in the production and transmission of electric

energy by such public or private utility for use outside the area to be served by the municipal electric plant; and, Provided further, That in the eminent domain proceedings to acquire from any public or private utility an electric plant, the property condemned must include all of the property owned by the utility within the city limits which is used or useful in connection with the business, of rendering electric service, subject only to the proviso next hereinabove in this section stated.

(2) The condemnation or eminent domain proceedings shall be brought in the name of the board, and title to the property so condemned shall be taken in the name of the board.

Section 48. KRS 96.600 is amended to read as follows:

(1) When the board of any municipality authorized to acquire, construct, own or operate an electric plant under the provisions of KRS 96.550 to 96.900 shall be unable to contract with the owner of any land, easement, right of way, electric plant, or any facilities or property needed by such board for its use for the purposes thereof and desires to exercise the right of eminent domain, the board shall *proceed to condemn the property pursuant to the Eminent Domain Act of Kentucky* [file in the office of the clerk of the county court a particular description of the property sought to be condemned, and may apply to the county court to appoint commissioners to assess the damages the owner or owners thereof may be entitled to receive, and thereupon said court shall appoint three (3) impartial housekeepers of the county who are landowners, and who shall be sworn to faithfully and impartially discharge their duties under this law.

(2) It shall be the duty of said commissioners to ascertain and determine the value of the property taken; the value of real estate, tangible personal property, intangible property and franchises, if any such value is found to exist, shall be determined and stated separately in their report; and they shall also award damages, if any, resulting to the remainder of the electric plant or system of the owner, considering the purposes for which the property is taken, and the amount of said damages, if any, shall be stated separately in their report They shall return a report, in writing, to the office of the clerk of said court, stating their award, and shall describe in their report the property condemned, giving the name or names of the owners, and whether nonresidents of the state, infants, or incompetent persons.

(3) Upon the application of said board, and upon filing such affidavits as may be necessary, the clerk of said court shall issue process against the owner or owners to show cause why the said report should not be confirmed, and shall make such orders as to nonresidents and persons under disability as are required by the Rules of Civil Procedure in actions against them in the circuit court.

(4) At the first regular term of the county court, after the owners have been summoned ten (10) days, if the summons be served in the county, or if served outside the county twenty (20) days, or if the service is constructive thirty (30) days, it shall be the duty of the court to examine said report, and if it shall appear to be in conformity to this law, and to the extent that no exceptions have been filed thereto by either party, it shall confirm said report as against the owners not excepting.]

Section 49. KRS 96A.080 is amended to read as follows:

(1) A transit authority may establish mass transportation within its transit area, but may not inaugurate service in direct competition with any existing certificated carrier.

(2) In addition to the power conferred upon an authority by this chapter, an authority may acquire real or personal property, easements, franchises, bus certificates, or other rights by any lawful means necessary to its operation of any existing mass transit system within its transit area, provided that having acquired an existing transit system it shall not thereafter inaugurate service in direct competition with any other existing certificated carrier.

(3) An authority may, if unable to contract or agree with the owner or owners thereof, acquire real and personal property, franchises, bus certificates, easements and other rights when necessary in and to the accomplishments of the public purposes of the authority, through exercise of the power of eminent domain; provided, however, that in acquiring any private bus company pursuant to this section, the authority may not do so piecemeal but shall acquire the entire system including that which may be outside the area then included within the authority. An authority shall not condemn any real and personal property, franchises, bus certificates, easements and other rights of a private bus company the majority of whose passengers move between termini without the transit area. Any exercise of such power shall be initiated by resolution of the board of the authority identifying the properties or rights to be acquired, reciting the board's determination that acquisition by such means is necessary, and authorizing initiation of proceedings as required by law; and such resolution of the board of the authority shall not be conclusive of such determination but shall be subject to the approval of the fiscal court or courts of the county or counties in which the property sought to be condemned is located.

(4) Proceedings in the exercise of the power of eminent domain herein vested in an authority shall, except where inconsistent with this chapter, be such as are prescribed for the State Bureau of Highways by *the Eminent Domain Act of Kentucky* [KRS 177.082 to 177.089], inclusive, and as the same may be amended and supplemented from time to time. All such proceedings shall be governed by the provisions of the Rules of

Civil Procedure except where the provisions of this chapter or of *the Eminent Domain Act of Kentucky* [KRS 177.082 to 177.089], inclusive, specifically or by necessary implication provide otherwise. If a privately owned mass transportation system, or other property sought to be acquired by an authority, shall have been acquired or improved in whole or in part at the expense of the authority, the cost and value of such acquisitions and improvements shall be excluded in any proceedings to establish the fair value thereof.

(5) During any period when negotiations for the purchase of a mass transit system are in progress, and/or during any period when proceedings for acquisition of a mass transportation system through exercise of the power of eminent domain may be pending, an authority may make reasonable subsidy payments to the owner or owners of such mass transit system if, in the judgment of the board of the authority, such subsidy payments are necessary in order to give reasonable assurance that there will be no substantial reduction of transportation service to the public. Such subsidy payments may be made by an authority from any resources available to it, or from appropriations made or agreed to be made to it by any public body having an interest in the preservation of mass transit service to the public; and if bonds are ultimately issued for the purchase or other acquisition of such mass transit system, the aggregate amount of such subsidy payments may be included as a part of the cost of acquisition and made payable from the proceeds of such bonds. In no event, however, shall any action on the part of a board of an authority in this connection create an indebtedness of the authority beyond its available resources or such appropriations or the proceeds of such bonds, if and when bonds are issued.

Section 50. KRS 97.257 is amended to read as follows:

Whenever property shall be needed by any city of the first class for any park, playground, or community center purpose contemplated in KRS 97.250 to 97.257, either within or beyond the boundaries of such city, in the county in which such city is located, the director of parks and recreation may, with the consent of the legislative body of such city, order the condemnation of such property in the manner provided in *the Eminent Domain Act of Kentucky* [KRS 416.120].

Section 51. KRS 97.540 is amended to read as follows:

Whenever, in the opinion of the legislative body of any city of the third class, land or other property located either within or without the boundaries of the city and within the county in which the city is located is needed for cemetery or park purposes and the legislative body is not able to contract with the owner of the property for its purchase, the legislative body may, by resolution reciting such need, order the condemnation of such property. The proceedings shall be conducted in the manner provided in *the Eminent Domain Act of Kentucky* [KRS 416.010 to 416.080].

Section 52. KRS 97.680 is amended to read as follows:

The commission may acquire, by gift, purchase, lease or condemnation, any real or personal property situated wholly within the city or county, or any interest, franchise, easement, right or privilege in the city or county, of any buildings, tools, machinery, materials or supplies that may be required for the purpose of furnishing, maintaining or operating the memorial. The proceedings for condemnation shall be conducted in the name of the commission in the method prescribed by *the Eminent Domain Act of Kentucky* [KRS 416.120]. All property acquired by the commission shall be held, used and controlled by it for the purposes named in KRS 97.630 to 97.780.

Section 53. KRS 98.090 is amended to read as follows:

(1) The commission may:

(a) Make such preliminary investigations and do such preliminary work as should, in its judgment, precede the actual construction of the building or improvement.

(b) Determine upon a proper site for the building or improvement. If the city owns a public building, that site, as it exists or as enlarged by the acquisition of adjacent property recommended by the commission, shall be used unless the commission determines that it is unsuitable for the purpose and recommends to the mayor the acquisition of another site. The mayor shall submit the recommendation to the legislative body for approval. The new site shall be adopted only upon the approval of the change by legislative resolution approved by the mayor. In the event the existing building on the old site is to be abandoned, the old site may be sold and the proceeds applied to the purchase of the new site.

(c) Provide accommodations for patients or inmates of the existing public building while the new building is in course of erection and furnishing. The legislative body may, out of its levy for the department having supervision of such buildings, assume the whole or part of the expense of providing such temporary accommodations.

(d) Establish and enforce reasonable rules and regulations for its own government and for the supervision, protection, management and conduct of its work and the payment therefor as it deems expedient.

(e) Purchase, hire or otherwise obtain the use of such lands, buildings, machinery, supplies, materials and working agencies as it needs for its purposes.

(f) Acquire by gift, purchase, lease or condemnation, any property situated within the city or county where the city is located, or any interest or privilege in the property, required for the building or improvement. The method of condemnation shall be the same as in *the Eminent Domain Act of Kentucky* [KRS 416.120].

(2) The enumeration of special powers in this section does not restrict the general powers of the commission to carry out the purposes of KRS 98.040 to 98.170.

Section 54. KRS 99.420 is amended to read as follows:

Whenever in the opinion of the agency, land or other property, right of way or easement over or through any property is needed by the agency in order to accomplish the purposes of KRS 99.330 to 99.510, it may by resolution authorize the purchase or condemnation in the name of the agency, of the land or other property, or right of way or easement necessary for the purpose, and may proceed to condemn and acquire the property *pursuant to the Eminent Domain Act of Kentucky.* [in the following manner:

(1) The proceedings for condemnation shall be in the circuit court in the county in which the property sought to be condemned, or the greater part thereof, lies. The proceeding shall be in the name of the agency. Proceedings shall be commenced by filing a complaint against all persons having an interest in the property, describing the property, right of way (if any) or easement (if any) sought to be condemned, and the complaint shall include a request for the court, or a judge thereof if the court is in vacation, to appoint commissioners to assess the value which the owners thereof are entitled to receive. The owners of two (2) or more different properties sought to be condemned for the same purpose may be joined and proceeded against in a single action, but the lands and properties of each shall be separately described.

(2) Upon the filing of the complaint, the circuit court, or a judge thereof, shall, in writing, forthwith appoint three (3) disinterested, impartial citizens and residents of the county, who shall be sworn by the court, a judge thereof, or by any person authorized to administer oaths, to faithfully, fairly and impartially discharge their duties. The order appointing the commissioners shall be filed in the office of the clerk of the circuit court immediately upon its signing, and shall become part of the proceedings as of the date filed. In the event any person so appointed fails, refuses or becomes incapable of acting, the court, or judge thereof, shall forthwith appoint a qualified person to fill the vacancy. A majority of the commissioners appointed and qualified have the power to act and to make and sign the award and report.

(3) The commissioners shall immediately upon their appointment take the oath of office, and shall enter in and upon the property, right of way (if any) or easement (if any) sought to be condemned, and shall view same. They may hear evidence or make any inquiry they desire touching the value thereof. They shall award to the owner of each parcel of land and property the fair market value thereof. Property owned by the same owner, which is contiguous and adjacent may be considered as one (1) parcel and may be included by the commissioners under a single award. If less than an entire parcel of contiguous property belonging to the same owner is sought to be condemned, the commissioners shall also award to the owner the difference between the fair market value of the entire parcel of property before and after the taking. The award of the commissioners shall be filed by them, in writing, in the office of the circuit clerk, within fifteen (15) days after the day the order appointing the commissioners is filed in the office of the clerk of the circuit court, and shall be styled "Report and Award of Commissioners."

(4) Immediately upon the filing of the complaint, the clerk of the circuit court shall cause summons and process to issue against the defendants. The summons shall be issued in the same form and in the same manner as provided for upon the filing of a complaint under the Rules of Civil Procedure, except that the summons shall also contain the notification that the defendant shall serve his answer or other pleading within twenty (20) days after the filing of the report and award of the commissioners and notification that exceptions to the report and award of the commissioners must be filed within the same period of time. The action and proceedings shall be carried on as nearly as may be as ordinary civil actions at law are conducted. Nonresidents and persons under disability shall be proceeded against as provided by the Rules of Civil Procedure. Defenses and exceptions for nonresidents and persons under disability may be made and filed by any person authorized to make defense for such persons under the Rules of Civil Procedure.

(5) Any answer or other pleading filed by any defendant in response to the summons shall be confined solely to the question of the right of the agency to condemn the property sought to be condemned, but without prejudice to the right of the defendant, then and thereafter, within proper time, to file exceptions to the amount of compensation awarded in the report and award of the commissioners. Any issue raised in the answer or other pleading filed, putting in issue the right of the agency to condemn the property shall be promptly heard and decided by the court, without a jury. If the court finds the agency has no right to take the property in condemnation for the purpose of uses sought, it shall dismiss the complaint at the costs of the agency.

(6) If answer or other pleading is timely filed putting in issue the right of the agency to condemn the property, the time for filing exceptions to the report and award of commissioners shall automatically be

extended to a time not later than ten (10) days after the decision by the court of the issue, and if the court decides that the agency does have the right to take the property in condemnation for the purposes or uses sought, the defendants shall file exceptions, should they desire so to do, to the report and award of commissioners within ten (10) days, if same has not theretofore been filed. If the defendants do not file an answer or pleading putting in issue the right of the agency to condemn the property, or having filed same is not sustained by the court, and, in either event, if the agency and the defendants do not file exceptions to the report and award of commissioners within the time provided, then the amount of the award set forth in the report and award of commissioners shall become final and not subject to exception or review and shall become and be entered as the judgment of the court setting and fixing the value of the land to be taken, and incidental damages to the remainder, if any. The agency has twenty (20) days from the filing of the report and award of commissioners to file its exceptions, should it desire so to do, unless answer or other pleading is filed by defendants, in which event the agency has ten (10) days after the decision by the court on the issue raised by the answer or pleading to file its exceptions. If exceptions are based on the ground that the award of the commissioners is too small or too great, the exceptions must be accompanied by an affidavit of the party excepting, his agent or attorney, stating the amount of the award and damages, if any, the party believes is just and reasonable. For the purpose of appeal, the difference between the amount awarded by the commissioners and the amount the excepting party claims would be just and reasonable shall be the amount in controversy.

(7) If timely exceptions to the report and award of commissioners are filed by any of the parties, the matter of the value of the property sought to be condemned shall forthwith be submitted to a jury to determine and assess value and damages, if any, and the case shall be advanced and have preference over other common law cases on the docket. In assessing value and damages, if any, the report and award of the commissioners shall not be permitted to be introduced or become substantive evidence in the case for the consideration of the jury, but nothing shall prevent the commissioners from testifying, subject to the same rules as apply to other witnesses, in which event either party may question the commissioners concerning their report and award. Upon request of any of the parties, the court may, in its discretion, send the jury to view the premises, except that if the property is taken under interlocutory judgment, as hereinafter provided, the jury's right to view shall be limited and restricted to the land only, if the buildings and appurtenances thereon and thereto have been removed or substantially altered and changed, and the court shall so instruct the jury. Jurors shall have the same qualifications as jurors in civil cases. They may or may not be residents of the city or governmental division in which the land, or the greater portion thereof, lies, but shall be residents of the county wherein same, or the greater portion thereof, lies. A unanimous verdict of all jurors is required, but only the foreman of the jury need sign the verdict.

(8) Upon final determination of all issues raised either by answer or other pleading, or by exceptions to the report and award of commissioners, or if no answer, pleadings or exceptions be filed by any of the parties, the court shall forthwith enter a judgment, which shall be a final judgment, and shall make such orders as are necessary and proper for the conveyance of the land, property and rights, if any, to the agency, upon the payment into court through the clerk of the circuit court by the agency of the amount set forth in the judgment of the court, vesting in the agency absolute fee simple title to the land, property and rights, if any, as described in the complaint, or any supplement or amendment thereof. In the event the owners fail, refuse or are unable to convey to the agency full and complete fee simple title to the land, property and rights, free, clear and unencumbered, the court shall thereupon cause the commissioner of its court, or a special commissioner appointed by the court for that purpose, to execute and deliver to the agency a deed of conveyance therefor, which deed of conveyance shall be executed as nearly as practicable in accordance with the rules governing the conveyance of property by commissioners when sold under order of court, including all the right, title and interest which the defendants and each of them had, or may have had therein. If, however, the agency has not taken same under interlocutory judgment, it may abandon its rights to take the land, property and rights, if any, and same shall be deemed abandoned by it in the event it does not pay into court within sixty (60) days from the date of the entering of the final judgment, the amount set forth therein as the amount to be paid by the agency for the taking thereof. The bond provided for by CR 4.11 of the Rules of Civil Procedure shall not apply and be required of the agency in any action for condemnation brought hereunder.

(9) Notwithstanding any other provision of this section, the agency may, prior to the entering of a final judgment, and at any time after the report and award of commissioners is filed in the circuit court, and notwithstanding exceptions have been or may be filed, file a demand for an interlocutory judgment. Copy of the demand shall be served upon defendants or their attorney or the person authorized to make defense for any nonresident or person under disability, at least ten (10) days prior to presentation to the court, or a judge thereof, in the manner provided by Rule 5 of the Rules of Civil Procedure. The court, or judge thereof, shall thereupon enter an interlocutory judgment granting and awarding to the agency immediate possession and full and complete use and control of the land and property sought to be condemned, and the agency shall thereupon be entitled to take possession thereof and to use and control same, including the right to remove, demolish, raze and do away with all buildings, structures and appurtenances thereon or thereto belonging,

without let, hindrance, interruption or interference by the defendants, or anyone claiming under them, as fully as if title had been conveyed to it, and the court, or judge thereof, shall enforce same by appropriate order and proceedings; Provided, however, That before any interlocutory judgment is entered, the agency shall pay into the court, by depositing with the clerk of the circuit court, the amount contained and set forth in the report and award of commissioners, and shall at the same time file with the clerk a bond, with surety approved by the court, a judge thereof, or the clerk of the circuit court, conditioned upon the agency paying to the defendants the difference between the sum paid into court, and that which may thereafter be finally determined to be the value of the property or property rights, if any, or incidental damages, if any, unless the agency shall have sufficient sums duly appropriated, properly allocated to that purpose and on deposit to pay for any money judgments, including costs adjudged against the agency, that may thereafter be rendered against it, and if such facts are alleged in its complaint or in any supplement or amendment thereto, a bond shall not be required of it. If an interlocutory judgment is entered, and no answer, pleading or exceptions have been or are thereafter filed within time by any of the parties, final judgment shall be entered as provided for in subsection (8) of this section. If answer, pleading or exceptions are filed, the case shall proceed as provided for in cases where no interlocutory judgment has been demanded and entered, and wherein answer, pleading or exceptions are filed, and the interlocutory judgment shall remain in full force and effect. If the final judgment is greater than the amount paid into court by the agency under the report and award of the commissioners, the agency shall thereupon pay into court by depositing with the clerk of the circuit court the difference between the amount paid by the agency under the interlocutory judgment and the amount finally determined by the final judgment to be the value. If the difference be less, then the court shall direct the clerk to return and refund the difference to the agency out of the amount paid into court under the interlocutory judgment, if said sum has not been withdrawn by the defendants, or if withdrawn by the defendants, the court shall enter judgment in favor of the agency against the defendants and their surety for said difference, together with interest at six per cent (6%) per annum on the amount of the decrease from the date of withdrawal. The defendants, upon the payment by the agency into court of the amount set forth in the report and award of the commissioners, may, upon written demand, a copy of which shall be served upon the agency or its attorney at least ten (10) days prior to withdrawal of the funds, subject to approval by the court, withdraw from the clerk of the circuit court the amount, provided defendants execute a bond, with surety approved by the court, or a judge thereof, conditioned upon the payment to the agency by the defendants of any amount which may be determined to be the difference between the amount paid into court by the agency and the final judgment in the case, should it be finally determined that the amount paid into the court by the agency was greater than the amount set forth in the final judgment, or that the defendants receiving the funds were not the proper persons to receive same. The withdrawal of the amount by the defendants shall not prejudice or prevent defendants from filing answer, pleading or exceptions in the case, or from pursuing same if already filed, or taking any appeal, the same as if no withdrawal had been made. If defendants withdraw the amount paid into court by the agency, they shall be entitled to interest at six per cent (6%) per annum from the date of the taking of possession by the agency only on the amount by which said sum may thereafter be increased. If defendants do not withdraw the amount paid into court by the agency, they shall be entitled to interest at six per cent (6%) per annum from the date of the taking of possession by the agency only on the amount determined by the final judgment to be the value and amount defendants are entitled to receive for the land and property taken. The demand for an interlocutory judgment and the entering thereof is an additional remedy and right granted the agency, and the case shall continue and be disposed of in the same manner as if no interlocutory judgment had been demanded or entered.

(10) All money paid into court, or to the clerk of the circuit court, whether under an interlocutory judgment or a final judgment shall be received and held by the clerk subject to the order of the court, and the clerk and his sureties on his official bond shall be responsible to the persons entitled thereto.

(11) Where there are conflicting interests and claims in land and property sought to be condemned and all such parties are before the court, the claims and equities of any claimant and owner shall be decided by the court or jury, as the case may be, and the funds paid into court under an interlocutory judgment or final judgment shall be subject thereto. Such claims or determination of rights shall in no wise stay or delay said condemnation proceedings.

(12) If more than one (1) piece of property is involved, owned by different persons, the jury shall render a separate verdict as to the property of each person, or the court may direct a separate trial for each piece of property owned by different persons.

(13) An appeal may be taken by either party in interest from the circuit court to the Court of Appeals in the manner, for any of the causes and subject to the rules provided by general laws regarding appeals from circuit court to the Court of Appeals, but no appeal or supersedeas shall suspend the right of the agency to have possession of the property, easement or right of way condemned. Such appeals shall be advanced on the docket of the Court of Appeals.

(14) A slum area or blighted area acquired for a housing project by the housing authority of the community may be included in a redevelopment area and the use of such area for redevelopment shall be a

public use as though such area were originally acquired for a redevelopment project.]

Section 55. KRS 103.245 is amended to read as follows:

An industrial building within the meaning of KRS 103.200 may be acquired by a city or a county by purchase, gift, or condemnation. Whenever a city or a county shall determine that land or other property, right of way, or easement over or through any property is needed by such city or county, as the case may be, to accomplish the purposes of KRS 103.200 to 103.285, inclusive, it may by ordinance or resolution authorize the purchase or condemnation, in the name of such city or county, of said land or other property, or right of way or easement necessary for such purposes, and may proceed to condemn and acquire such property in the [same] manner *set forth in the Eminent Domain Act of Kentucky.* [by which an urban renewal and community development agency is permitted and authorized to acquire property under the provisions of KRS 99.420, and in accordance with the procedures therein set out, except that all] *All* property, rights of way and easements already held by its owner or lessee for industrial development shall be exempt from condemnation under this section.

Section 56. KRS 104.010 is amended to read as follows:

(1) Whenever in the opinion of the fiscal court of any county the title to or any interest in real property within the county is needed for the purposes of flood control and the fiscal court cannot acquire such property by agreement with the owners thereof, whether by reason of disagreement as to the price or by reason of any other cause, the fiscal court shall adopt a resolution setting forth the foregoing facts and ordering the condemnation of the required property, giving a general description thereof, together with the names of the owners thereof where they are known to the fiscal court, and directing the county attorney to institute the proceedings. The condemnation proceedings *shall* [may] be had in the county court under the procedure prescribed in *the Eminent Domain Act of Kentucky* [KRS 416.110, or may be had in the circuit court under the procedure prescribed in KRS 416.120, the selection as to which procedure to be followed being made by the fiscal court in the resolution ordering the condemnation].

(2) The legislative body of any city shall have the same power to condemn real property, lying within or without the corporate limits of the city, for flood control purposes, as is given to the fiscal court of a county by subsection (1) of this section. The condemnation proceedings shall be instituted and prosecuted by the city attorney.

(3) This section is intended to constitute an alternate method of acquiring property for flood control purposes, in addition to, and not as a substitute for, any other method authorized by law.

Section 57. KRS 104.070 is amended to read as follows:

If it becomes necessary to acquire rights of way, land, easements or borrow-pits, or other property, and it cannot be acquired by purchase, the governing authority may condemn and obtain the needed property in the manner provided by *the Eminent Domain Act of Kentucky* [KRS 416.010 to 416.080, or, alternatively, in the manner provided by the statutes for the condemnation of property for public purposes by the particular class of city exercising the authority of KRS 104.020 to 104.160].

Section 58. KRS 104.170 is amended to read as follows:

Whenever in the opinion of the governing body of any city, county, flood control, drainage, levee, reclamation or soil conservation district any land or other property or right of way or easement over or through any property, is needed by the city, county, flood control, drainage, levee, reclamation or soil conservation district to perform work or construct structures or improvements for flood control, flood protection or drainage purposes, or to permit others, including the United States of America or any governmental department, branch or agency thereof, to perform work or construct structures or improvements for flood control, flood protection or drainage purposes, either within or beyond the boundaries of the city, county, flood control, drainage, levee, reclamation or soil conservation district, the governing body may, by resolution reciting the need, order the condemnation of the land or other property, or right of way or easement, needed for such purpose or project, and may proceed to condemn and acquire title to any such land or other property, or right of way or easement, as provided by and pursuant to the provisions of *the Eminent Domain Act of Kentucky* [KRS 94.680 to 94.720], and as further provided by and pursuant to the provisions hereinafter set out:

(1) The judge of the *county* [circuit] court shall, upon the filing of a petition by the city, county, flood control, drainage, levee, reclamation or soil conservation district, seeking condemnation of any of such land or other property, or right of way or easement for such purpose or project, grant and award immediate possession and full and complete use and control of said land or other property, or right of way or easement to the city, county, flood control, drainage, levee, reclamation or soil conservation district by an interlocutory judgment which shall be rendered immediately after the filing of the report by the commissioners duly appointed pursuant to the provisions of *the Eminent Domain Act of Kentucky* [KRS 94.690], and the city,

county, flood control, drainage, levee, reclamation or soil conservation district shall thereupon be entitled to take possession thereof and to use and control the same for the purpose for which it is being condemned as fully as if the title had been conveyed to it; however, prior to the rendering of the interlocutory judgment, the city, county, flood control, drainage, levee, reclamation or soil conservation district shall be required to pay into court the sum awarded by the commissioners in their report for such land or other property, or right of way or easement. The court shall, after having rendered said interlocutory judgment, upon motion by the city, county, flood control, drainage, levee, reclamation or soil conservation district, make such orders as may be necessary and proper for the conveyance of title to such land or other property or property rights to the city, county, flood control, drainage, levee, reclamation or soil conservation district, by a deed of conveyance therefor, to be executed by the regular court commissioner or a special commissioner appointed by the court for this purpose, which deed shall be executed as nearly as practicable in accordance with the rules governing the conveyance of property by commissioners when sold under order of court.

(2) The commissioners appointed pursuant to *the Eminent Domain Act of Kentucky* [KRS 94.690] may report at any time after summons has been duly issued or warning order attorney appointed. Thereafter, either party may, before answer day, file written exceptions to said report, as provided in *the Eminent Domain Act of Kentucky* [KRS 94.700], except that the city's, county's, flood control, drainage, levee, reclamation or soil conservation district's exceptions, if any, shall be made and filed prior to the entry of said interlocutory judgment. The sum not in controversy shall be paid or tendered to the parties defendant by the court prior to the entry of said interlocutory judgment.

(3) It is further provided that before rendering the interlocutory judgment, the court shall require the city, county, flood control, drainage, levee, reclamation or soil conservation district to execute a bond, with surety to be approved by the court, conditioned upon the city, county, flood control, drainage, levee, reclamation or soil conservation district paying to the parties defendant the difference between the sum paid into court and that which may thereafter be finally determined to be the value of the property or property rights and incidental damages, if any, if the parties defendant except to the report of the commissioners, unless the city, county, flood control, drainage, levee, reclamation or soil conservation district shall have sufficient funds duly appropriated, properly allocated to that purpose, and on deposit to pay any money judgments, including all costs adjudged against the city, county, flood control, drainage, levee, reclamation or soil conservation district, that may thereafter be rendered against it, and such fact or facts shall be alleged in its petition for condemnation.

(4) The city, county, flood control, drainage, levee, reclamation or soil conservation district shall not be permitted to abandon the condemnation proceeding after having obtained possession and title to said land or other property or property rights unless none of the parties defendant will be materially prejudiced thereby.

(5) The proceedings for condemnation under the provisions of this section shall be conducted in the name of the city, county, flood control, drainage, levee, reclamation or soil conservation district by its regular attorney or by special counsel employed and designated by it to conduct such condemnation proceedings for such purpose, which power to employ and designate special counsel for such purpose is granted the city, county, flood control, drainage, levee, reclamation or soil conservation district [notwithstanding the provisions of subsection (2) of KRS 94.680, requiring condemnation proceedings by second-class cities to be conducted in the name of the city solicitor].

Section 59. KRS 104.180 is amended to read as follows:

Cities of the fourth class in this commonwealth are hereby authorized and empowered to acquire land by purchase or condemnation for the purpose of straightening or widening any creek or creeks running through the corporate limits of the city to prevent or lessen the overflow thereof and consequent damage to any street or alley or parts of any street or alley therein or the health of its inhabitants; and, if any land for this purpose cannot be acquired by the city by purchase, the legislative body of such city may adopt an ordinance declaring the necessity for the acquisition of such land for any of the above stated purposes and authorizing and directing the institution of proceedings to condemn the property. Such condemnation proceedings shall be in accordance with *the Eminent Domain Act of Kentucky* [KRS 416.010 to 416.080].

Section 60. KRS 104.350 is amended to read as follows:

If it becomes necessary to acquire rights of way, land, easements or borrow-pits, or other property, the governing authority may condemn and obtain the needed property in the manner provided by *the Eminent Domain Act of Kentucky* [KRS 416.010 to 416.080, or, alternatively, in the manner provided by the statutes for the condemnation of property for public purposes by such city].

Section 61. KRS 106.230 is amended to read as follows:

(1) When the board of any water district or municipality authorized to acquire, construct, own or operate a waterworks or water distribution system and appurtenances thereto, under the provisions of this chapter shall be unable to contract with the owner of any land, easements, rights of way, waterworks, water

distribution systems and appurtenances thereto, or any facilities or property needed by such board for its use for the purposes thereof and desires to exercise the right of eminent domain, the board shall *proceed pursuant to the Eminent Domain Act of Kentucky.* [file in the office of the clerk of the circuit court a particular description of the property sought to be condemned, and may apply to the circuit court to appoint commissioners to assess the damages the owner or owners thereof may be entitled to receive, and thereupon said court shall appoint three (3) impartial housekeepers of the county who are landowners, and who shall be sworn to faithfully and impartially discharge their duties under this law.

(2) It shall be the duty of said commissioners to ascertain and determine the value of the property taken, the value of real estate, tangible personal property, intangible property and franchises if any such value is found to exist shall be determined and stated separately in their report; and they shall also award damages, if any, resulting to the remainder of the waterworks, water distribution system and appurtenances thereto of the owner, considering the purposes for which the property is taken, and the amount of said damages, if any, shall be stated separately in their report. They shall return a report, in writing, to the office of the clerk of said court, stating their award, and shall describe in their report the property condemned, give the name or names of the owners, and whether nonresidents of the state, infants, or incompetent persons.

(3) Upon the application of the said water district commissioners or the legislative body of the municipality herein referred to as the board, and upon filing such affidavits as may be necessary, the clerk of said court shall issue process against the owner or owners to show cause why the said report should not be confirmed, and shall make such orders as to nonresidents and persons under disability as are required by the Rules of Civil Procedure in actions against them in the circuit court.

(4) At the first regular term of the circuit court, after the owners shall have been summoned the length of time prescribed by the Rules of Civil Procedure before an answer is required in circuit court, it shall be the duty of the court to examine said report, and if it shall appear to be in conformity to this law, and to the extent that no exceptions have been filed thereto by either party, it shall confirm said report as against the owners not excepting.]

Section 62. KRS 108.010 is amended to read as follows:

To serve the public interest and provide a means of meeting problems of local government in urban areas, there may be established and operated under the provisions of this chapter an urban services district. Such a district shall be a public body corporate and political subdivision, with power to adopt and use a corporate seal, sue and be sued, contract and be contracted with, and in other ways to function as a municipal corporation or a natural person within the purview of this chapter. In addition to the general grants of power of this chapter, such a district shall have the specific authority provided for in KRS chapters 58, 66, 79 and 107. The district shall have the power of eminent domain and shall follow the procedures outlined in *the Eminent Domain Act of Kentucky* [KRS 416.120].

Section 63. KRS 108A.070 is amended to read as follows:

(1) Certification of a new community district shall constitute adoption of the development criteria filed with the petition as the planning intent of the county for the use of land within the district and shall exempt such area from all housing restrictions and building codes in order to promote innovation and experimentation.

(2) No land within the new community district shall be used except in accordance with a development plan based on the criteria filed with the petition. The petitioner shall make every reasonable effort to acquire all of the real property within the district by negotiated purchase at a fair and reasonable price.

(3) If the petitioner is unable to acquire portions of the land within the district by negotiated purchase, the new community district may acquire such land for public uses, such as schools, roadways, park and open space, and utilities, but not for private residential or commercial uses, by condemnation in accordance with the procedure provided in *the Eminent Domain Act of Kentucky* [KRS 108A.080].

Section 64. KRS 109.160 is amended to read as follows:

The board may by resolution reciting the need, order the condemnation on behalf of the district of any real property or interest therein that in the opinion of the board is necessary for the proposed construction or use of a disposal method. Proceedings for condemnation shall be conducted in the manner prescribed in *the Eminent Domain Act of Kentucky* [KRS 416.230 to 416.310].

Section 65. KRS 148.235 is amended to read as follows:

The Breaks Interstate Park commission may acquire by condemnation in the manner provided in *the Eminent Domain Act of Kentucky* [KRS 416.010 to 416.080] such lands lying within this state as may be necessary to be acquired for purposes of the Breaks Interstate Park. Deeds to land in this state comprising the Breaks Interstate Park shall be in the name of the Breaks Interstate Park commission, KRS 56.030 notwithstanding. Subject to the approval of the governor, the state property and buildings commission is hereby empowered to convey by deed to the Breaks Interstate Park commission all right, title and interest of the commonwealth in and to all real property now held in behalf of this commonwealth and comprising the Breaks Interstate Park.

Section 66. KRS 150.024 is amended to read as follows:

The department shall have the right to acquire such property as may be necessary to carry out the purpose of this chapter, and it shall have the right of eminent domain as provided in *the Eminent Domain Act of Kentucky* [KRS 416.010 to 416.080].

Section 67. KRS 152.840 is amended to read as follows:

(1) The purpose, duties and powers of the authority shall be to:

(a) Acquire, retain and develop land for industrial and commercial purposes in Kentucky; aid in the development and promotion of industrial sites, parks and subdivisions to meet industrial and commercial needs in Kentucky.

(b) Encourage the acquisition, retention and development of land for industrial and commercial needs in Kentucky by other local development organizations, both public and private.

(c) Cooperate with the U. S. army corps of engineers and other federal agencies in formulating development plans and in acquiring and developing land for industrial and commercial purposes in accordance with these plans.

(d) Acquire by contract, lease, purchase, gift, condemnation or otherwise any real or personal property, or rights therein, necessary or suitable for establishing industrial sites, parks or subdivisions. The authority may dispose of any real or personal property, or rights therein, which in the opinion of the authority are no longer needed to carry out the purposes of KRS 152.810 to 152.930. The authority may sell or convey any or all land owned or optioned by it to any public or private organization, governmental unit, or industry for the purpose of constructing and/or operating any industrial or commercial facility. Provided, however, that no sale or conveyance of any land shall be made to a private organization or industry without such organization or industry first having executed a written contract with the authority providing that if no actual construction of an industrial facility is commenced within two (2) years, the organization or industry shall reconvey the land, free and clear of liens and encumbrances, to the authority, and the authority shall return to the organization or industry 95 per cent of the purchase price paid therefor.

(2) Upon the adoption by the authority of a resolution reciting that property is needed for industrial sites, parks and subdivisions and cannot be acquired by negotiation and purchase at its fair market value, the governmental units in which such land is located may direct and institute condemnation procedures in the name of such governmental units, for the use and benefit of the authority. The procedure for condemnation shall conform to the procedure set out in *the Eminent Domain Act of Kentucky* [KRS 416.120]. Upon acquisition of the property, the governmental unit shall convey the property to the authority upon payment by the authority to the governmental unit of an amount of money equal to the judgment and costs paid by the governmental unit.

Section 68. KRS 162.030 is amended to read as follows:

Each board of education may, when unable to make a contract satisfactory to the board with the owner for the purchase of real estate to be used for school purposes, initiate condemnation proceedings *pursuant to the Eminent Domain Act of Kentucky* [under any of the methods of condemnation authorized by KRS 416.010 to 416.080, KRS 416.120, and KRS 416.230 to 416.310], and the title to land so obtained shall be vested in fee simple.

Section 69. KRS 164.260 is amended to read as follows:

The board of trustees may acquire additional lands or other property or material for the purpose of expanding its plant and extending its usefulness. When unable to contract with the owner of land or other property or material necessary for the purposes of the university, it may acquire the same by condemnation proceedings in the manner provided in *the Eminent Domain Act of Kentucky* [KRS 416.010 to 416.080].

Section 70. KRS 164.410 is amended to read as follows:

Each board of regents may, on such terms as it regards best for the university or college, purchase or lease land for the purpose of securing the erection of buildings, and may receive by any legal mode of conveyance, purchase and hold property of any description that the board deems necessary for the purposes of the school, and may build and construct improvements for such purposes and hold or sell the same. If a board of regents is unable to agree with the owner of such real estate as to its value, or to its purchase, it may proceed in its own name to condemn such real estate in the manner provided in *the Eminent Domain Act of Kentucky* [KRS 416.010 to 416.080]. Real estate acquired by purchase or condemnation shall be paid for out of money appropriated to the university or college. Each board of regents may, when it regards it best for the school, sell and convey any real estate, buildings or equipment owned by it, but the proceeds arising from the sale must be reinvested in other real estate, buildings and equipment for the use of the university or college.

Section 71. KRS 165.070 is amended to read as follows:
The board of trustees of a municipal university in a city of the first class may acquire, by purchase or gift, lands and improvements for the purpose of expanding the plant and extending the usefulness of the university, and when unable to agree with the owner of land and improvements necessary for the purposes of the university may proceed to condemn the land and improvements. The condemnation proceedings shall be conducted in the manner provided in *the Eminent Domain Act of Kentucky* [KRS 416.120].

Section 72. KRS 165.195 is amended to read as follows:
The board of trustees of a municipal college in a city of the second class may acquire, by purchase or gift, lands and improvements for the purpose of expanding the plant and extending the usefulness of the college, and when unable to agree with the owner of land and improvements necessary for the purposes of the college may proceed to condemn the land and improvements. The condemnation proceedings shall be conducted in the manner provided in *the Eminent Domain Act of Kentucky* [KRS 416.230 to 416.310].

Section 73. KRS 166.100 is amended to read as follows:
The state board of education may purchase, hold and sell real and personal property in the name of the commonwealth for the use and benefit of the West Kentucky Vocational School and may condemn real estate in the manner provided by *the Eminent Domain Act of Kentucky* [KRS 416.010 to 416.080]. The board may construct improvements and do all things it deems necessary in carrying out the purposes for which the school is maintained. Revenue accruing by reason of the sale or conveyance of any real estate or building owned by it shall be re-invested in other real estate and buildings for use of the school. All appropriations, grants, bequests or donations for a specified use shall be applied to that use and no other.

Section 74. KRS 168.100 is amended to read as follows:
The authority shall have no power of taxation, nor is it vested with the police power of the commonwealth, except insofar as the exercise of the power of eminent domain may be deemed a part thereof. Otherwise, in general terms, it shall have and is hereby given all such constitutional powers as are necessary to its accomplishment of the purpose and implementation of the public policy set forth in KRS 168.010. Without limiting the generality of the foregoing, but only for assurance to parties from time to time transacting business with the authority, and who may demand and be entitled to assurance, the following specific powers are hereby vested in the authority:

(1) To receive and use in the furtherance of its lawful objectives such state funds as may be appropriated or allotted to it from time to time, any funds received for services rendered under contract or from the sale of property owned by it, and contributions, matching funds, gifts, bequests and devises from any source, whether state or federal, and whether public or private; unless the same be tendered subject to one or more conditions which are inconsistent with KRS 168.010 to 168.100, or otherwise unlawful;

(2) To make contracts and agreements whereunder the authority may undertake to provide educational television facilities and related functions and facilities to or for any public body of the state or federal government in furtherance of educational television or in aid of any other public function; Provided, however, it shall be an express provision of every such contract that the authority will not undertake to transmit or relay, and will not permit any other party to transmit or relay, in the use of the authority's television facilities, any subversive matter, any political propaganda, or any image or message in the interests of any political party or candidate for public office; or be used by, or in aid of, any church, sectarian or denominational school; but this proviso is not intended and shall not be construed to be a limitation upon dissemination by the authority of legitimate objective instructional material which is properly related to the study of history or of current events, or which is no more than factually informative, of current issues of government or of various political ideologies;

(3) To produce, prepare, transmit and relay, either from life or by recording on tape or films, educational television programs and related services not inconsistent with the curricula prescribed or approved for the public schools of the commonwealth by the department or the board;

(4) To purchase or lease from others, or to contract with others for the use of, or the right to transmit or relay similar educational television programs and related services, whenever in the opinion of the authority the same are suitable and cannot be produced as effectively or economically through the use of its own facilities;

(5) To purchase, lease or otherwise acquire, and to operate, television and related facilities deemed by the authority to be necessary in the furtherance of its lawful objectives; and in this connection to acquire property by the exercise of the power of eminent domain, in the manner authorized for the highway department by *the Eminent Domain Act of Kentucky* [KRS 177.081 to 177.089], whenever the same cannot be purchased, leased, or otherwise acquired at a reasonable price after reasonable negotiations with the owner or

owners. In all such matters, the authority shall be subject to the provisions of KRS chapters 45 and 56;

(6) To prescribe standards for receiving instruments which are purchased in the future for use in the public schools, in order that reception of educational television programs and related services may be acceptable and in conformity with the manner of transmission thereof; and to disseminate such standards together with technical information with regard to installations and use of receiving instruments to all of the public school districts, or to such as may request the same;

(7) In its discretion and within the limitation of availability of funds from any sources, to

(a) Establish a program of matching funds as an inducement to public school districts to purchase and install proper facilities for receiving and utilizing educational television programs and related services, especially in situations where by reason of topographical difficulties of reception, special antennas or other equipment may be required, and/or

(b) If so requested by the boards of education of a sufficient number of public school districts, to purchase through the department of finance, subject to the provisions of KRS chapter 45, receiving instruments on their behalf on a wholesale basis for the purposes of economy, any such purchases to be on a public competitive basis after due advertisement according to law, but restricted to such receiving instruments as meet the standards prescribed by the authority.

Section 75. KRS 177.081 is amended to read as follows:

(1) The commonwealth of Kentucky, bureau of highways, when it has, by official order, designated the route, location or relocation of a highway, limited access highway, bridge, roadside park, borrow pit, quarry, garage or other property or structure deemed necessary for the construction, reconstruction, or maintenance of an adequate system of highways, may, if unable to contract or agree with the owner or owners thereof, condemn the lands or material, or the use and occupancy of the lands designated as necessary. All property acquired *by the Commonwealth of Kentucky, bureau of highways,* [under the provisions of KRS 177.081 to 177.089] shall be in fee simple whenever so specified in the petition filed in the action. The official order of the bureau of highways shall be conclusive of the public use of the condemned property and the condemnor's decision as to the necessity for taking the property will not be disturbed in the absence of fraud, bad faith, or abuse of discretion.

[(2) The provisions of KRS 177.081 to 177.089 shall apply whether cost of property condemned is borne by commonwealth of Kentucky, department of highways, or any county or municipality thereof.]

(2) [(3)] The proceedings for condemnation shall be as provided in *the Eminent Domain Act of Kentucky* [KRS 177.081 to 177.089].

[(4) All proceedings under KRS 177.081 to 177.089 shall be governed by the provisions of the Rules of Civil Procedure except where the provisions of KRS 177.081 to 177.089 specifically or by necessary implication provide otherwise.]

Section 76. KRS 177.082 is amended to read as follows:

The commonwealth of Kentucky, bureau of highways, when seeking to condemn lands and material and the use and occupancy of lands, under the provisions of KRS 177.081, shall direct the county attorney or any attorney authorized to represent the commonwealth to file a petition in the office of the county court clerk in the county in which all or the greater portion of the land or material is located. If any authorized attorney, other than the county attorney, is directed to file the petition, the county attorney shall assist in the prosecution of the action. The petition shall be filed in the name of the commonwealth of Kentucky, bureau of highways and may join as plaintiff the county in which any part of the property is situated, or in which the petition is filed, or any municipality thereof. [It shall state that it is filed under the provisions of KRS 177.081 to 177.089 and shall contain, in substance:

(1) Allegations sufficient to show that the petitioner is entitled, under the provisions of KRS 177.081, to condemn the lands and material and the use and occupancy of the lands in question;

(2) A particular description of the land, the use and occupancy thereof, and the material sought to be condemned;

(3) An application to the county court to appoint commissioners to award the amount of compensation the owner thereof is entitled to receive therefor.]

Section 77. KRS 177.090 is amended to read as follows:

(1) The bureau of highways is hereby authorized to acquire and improve strips of land necessary for the restoration, preservation, and enhancement of scenic beauty within and adjacent to federal-aid highways of this state, including acquisition and development of publicly owned and controlled rest and recreation areas and sanitary and other facilities within or adjacent to the highway right of way reasonably necessary to accommodate the traveling public.

(2) The interest in any land authorized to be acquired and maintained under this section may be the fee simple or any lesser interest, as determined by the bureau of highways to be reasonably necessary to

accomplish the purposes of this section. Such acquisition may be by gift, purchase, exchange, or condemnation.

(3) The acquisition through condemnation shall be in accordance with the provisions of *the Eminent Domain Act of Kentucky* [KRS 177.081 to 177.089].

Section 78. KRS 177.867 is amended to read as follows:

(1) The secretary of the department of transportation is authorized to acquire by purchase, gift, or condemnation pursuant to *the Eminent Domain Act of Kentucky* [KRS chapter 177] and shall pay just compensation upon the removal of the following advertising devices:

(a) Those lawfully in existence on October 22, 1965;

(b) Those lawfully on any highway designated a part of the interstate or federal-aid primary system on or after October 22, 1965, and before January 1, 1968; and

(c) Those lawfully erected on or after January 1, 1968.

(2) Compensation shall be paid for the following:

(a) The taking from the owner of any such advertising device of all right, title, leasehold, and interest in such advertising device; and

(b) The taking from the owner of the real property on which the advertising device is located, of the right to erect and maintain such advertising devices thereon.

Section 79. KRS 178.110 is amended to read as follows:

(1) If the court decides to establish or alter a county road, bridge or landing, and the compensation to be paid for the right of way cannot be fixed by agreement, the right of way shall be condemned under the procedure set forth in *the Eminent Domain Act of Kentucky* [KRS 416.100].

(2) In case of roadbeds or bridges, or a portion of them, washing or slipping away, or in case of extreme emergency, and when in its judgment conditions warrant it, the county court may immediately open and have surveyed a road or passway to be temporarily used while the commissioners appointed under *the Eminent Domain Act of Kentucky* [KRS 416.100] are acting, or while the matter is pending in the court to establish a permanent road or passway, and the commissioners shall assess the damages of the temporary road or use thereof. The same proceedings shall be had to recover damages as in recovery in regard to other roads.

(3) But when such compensation is ascertained it shall be at the option of the county court to pay it or to abandon the proposed undertaking. If it decides to pay the compensation, the fiscal court of the county shall include in its next levy an amount sufficient therefor.

(4) Not more than two (2) acres shall be condemned for a landing.

Section 80. KRS 178.120 is amended to read as follows:

Whenever the fiscal court of any county deems it to be in the best interest of the county to open, establish, construct, alter or repair any public road, street, alley, ditch or bridge of the county and the fiscal court is unable to contract with the owner of the land, required for such purpose, for its purchase or to acquire the same by gift, the land may be condemned under the procedure set forth in *the Eminent Domain Act of Kentucky* [KRS 416.110].

Section 81. KRS 178.125 is amended to read as follows:

(1) Whenever the fiscal court of any county deems it to be in the best interest of the county to acquire additional land adjacent to an existing county road to provide for future widening and improvement of said road, and the fiscal court is unable to contract with the owners of the land required for such purposes for its purchase or to acquire the same by gift, the land may be condemned under the provisions set forth in *the Eminent Domain Act of Kentucky* [KRS 416.110 or KRS 416.115].

(2) The resolution authorizing condemnation shall set forth the facts of the proposed acquisition, including a description of the land sought to be acquired, which description may be stated in widths from the existing centerline of the road proposed to be improved. In condemnation for future improvement under this section it shall not be necessary for the county to have completed plans for actual construction; Provided, the property owner is furnished with an accurate description of the property sought to be condemned. The right of way thus obtained shall be for reasonably foreseeable future construction and improvement in conformity with the existing grade of said road and with free access to adjacent property.

Section 82. KRS 180.030 is amended to read as follows:

(1) When the bureau cannot by agreement with the owner acquire any bridge or the real or personal property or rights needed for bridge or approach purposes, it may condemn such bridge, real or personal property or rights in the manner provided in *the Eminent Domain Act of Kentucky* [KRS 416.010 to 416.080].

(2) The attorney general shall represent the bureau in condemnation proceedings, and he shall be assisted by the county attorneys of the county or counties where the property is located.

(3) Real estate used by any steam or electric railroad as a right of way shall not be condemned for bridge or approach purposes.

Section 83. KRS 180.270 is amended to read as follows:

If the bureau is unable to contract with the owner of the competing ferry for the purchase of the ferry, the bureau may institute condemnation proceedings in the county where the ferry is located, for the purpose of acquiring the ferry. The condemnation proceedings shall be in the name of the state, under the procedure set out in *the Eminent Domain Act of Kentucky* [KRS 416.010 to 416.080]. In the proceeding the bureau shall be represented by the attorney general and by the county attorney of the county in which the proceedings are filed. Where the ferry operates between two (2) counties the proceedings may be filed in either county.

Section 84. KRS 181.620 is amended to read as follows:

(1) Whenever a reasonable price cannot be agreed upon, the commission may condemn any property necessary or convenient for the improvement or the efficient operation of any property acquired or constructed under KRS 181.560 to 181.840, or for the purpose of constructing any bridge or portion of bridge, or for securing a right of way leading to the bridge or its approaches, in the manner provided in *the Eminent Domain Act of Kentucky* [KRS 94.680 to 94.720].

(2) The commission may also exercise in Kentucky and adjoining states such powers of eminent domain as are conferred upon the city or commission by any act of congress.

(3) Title to any property condemned by the commission shall be taken in the name of the city. The city shall be under no obligation to accept and pay for any property condemned, or any costs incidental to any condemnation proceedings, and shall in no event pay for property condemned or the cost of the proceedings except from the funds received under the provisions of KRS 181.560 to 181.840.

(4) The court having jurisdiction of the condemnation proceedings may make such orders as may be just to the city and to the owners of the property to be condemned, and may require a bond or other security to secure the owners against any loss or damage to be sustained by reason of the failure of the city to accept and pay for the property. The bond or security shall impose no liability upon the city, except such as may be paid from the funds received under KRS 181.560 to 181.840.

Section 85. KRS 182.170 is amended to read as follows:

(1) Except as provided in KRS 182.010, in order to build a mill or factory useful to the public, any person who owns land on a watercourse, the bed of which belongs to him or the state, may obtain leave, and acquire by condemnation land sufficient to establish a dam in or across the watercourse, or to raise an established dam, or to cut or enlarge a canal above or below.

(2) Condemnation shall be in the manner provided by *the Eminent Domain Act of Kentucky* [KRS 416.010 to 416.080]. The proceedings shall be brought in the county in which the principal part of the land asked to be condemned is situated, and shall embrace all the land demanded, whether lying in the same county or not.

Section 86. KRS 183.122 is amended to read as follows:

(1) Where necessary, in order to provide unobstructed air space for the landing and taking off of aircraft utilizing airports acquired or operated under the provisions of this chapter, the bureau is hereby granted authority to condemn and acquire, in the same manner as is provided for the acquisition of property for airport purposes, easements through or other interests in air space over land or water, interests in airport hazards outside the boundaries of the airports and such other airport protection privileges, together with rights of ingress and egress thereto and therefrom, as are necessary to insure safe approaches to the landing areas of said airports and the safe and efficient operation thereof. The bureau is authorized to acquire, in the same manner, the right or easement, for a term of years or perpetually, to place or maintain suitable marks for the daytime marking and suitable lights or marks for the night marking of airport hazards, including the right of ingress and egress to and from such airport hazards for the purpose of maintaining and repairing such lights and marks.

(2) The secretary may, by order, authorize any airport board or governmental unit to condemn and acquire, with the full power of the commonwealth, in the [same] manner [as is] provided *in the Eminent Domain Act of Kentucky* [for the acquisition of property for airport purposes by such board, or governmental unit], any of the interests, easements, airport protection privileges, interests in air space, rights, or hazard marking privileges described in subsection (1), or any real or personal property. Any condemnation proceeding which may be necessary for such acquisition, if filed under this subsection, shall be filed in the name of the commonwealth on relation of the commissioner of aeronautics, and of the airport board or governmental unit making such acquisition.

(3) The authority granted in subsections (1) and (2) shall not be so construed as to limit the right, power, or authority of the state or any municipality or governmental unit to zone property adjacent to any airport pursuant to any law of this state.

Section 87. KRS 183.133 is amended to read as follows:

(1) The purpose of the board shall be to establish, maintain, operate, and expand necessary, desirable or appropriate airport and air navigation facilities. It shall have the duty and such powers as may be necessary, or desirable to promote and develop aviation, including air transportation, airports and air navigation facilities.

(2) The board shall establish and fix reasonable rates, charges and fees for the use of the landing area, ramps and other common aviation facilities. In fixing such rates, charges or fees the board may take into consideration, among other factors, the total capital investment by the board or other local or state governmental authority, the revenue needed properly to maintain such facilities, the revenue needed properly to expand the airport and its facilities, the portion of the facilities utilized by the licensee or contracting party and its customers and the volume and type of business conducted. Any party aggrieved by the rates, charges or fees may appeal from the action of the board to the circuit court of the county within which the board operates, within ninety (90) days from the date that the board finally publishes such rates, charges or fees and gives notice of same to the contracting party or licensee. The circuit court may hear evidence and determine whether or not the rates, charges or fees are, or are not, reasonable in amount. Appeal from the judgment of the circuit court may be prosecuted as any other civil appeal.

(3) The board shall likewise have power, from time to time, to fix rates, charges or fees by contract, or by publishing general rates, charges or fees for commercial vendors, concessionaires or other persons for the use or occupancy of terminal or other ground use facilities, under such terms or conditions as it may deem to be in the best interest of maintaining, operating or expanding necessary airport or air navigation facilities, and the public use thereof.

(4) The board may acquire by contract, lease, purchase, gift, condemnation or otherwise any real or personal property, or rights therein, necessary, for establishing, operating or expanding airports and air navigation facilities. The board may erect, equip, operate and maintain on such property, buildings and equipment necessary, desirable or appropriate for airport or air navigation facilities. The board may dispose of any real or personal property, or rights therein, which, in the opinion of the board are no longer needed for operating or expanding the airport or air navigation facilities.

(5) The board or any other governmental unit may by resolution reciting that the property is needed for airport or air navigation purposes direct the condemnation of any property, including navigation or other easements. The procedure for condemnation shall conform to the procedures set out in *the Eminent Domain Act of Kentucky* [KRS 416.120, or in the alternative, as nearly as practicable to KRS 177.081 to 177.089].

(6) The board or any other governmental unit may from time to time make, adopt and enforce such rules, regulations and ordinances as it may find necessary, desirable or appropriate for carrying into effect the purposes of this chapter, including those relating to the operation and control of the airport, airport facilities or air navigation facilities owned or operated by such board or such other governmental unit. All rules, regulations and ordinances adopted pursuant to this section shall be published according to the provisions of KRS 424.130, and the board or other governmental unit adopting them shall keep a permanent record of such rules, regulations and ordinances available for public inspection, on the airport premises. Prosecution for a violation of any rule, regulation or ordinance adopted pursuant to this section shall be in the police court of any municipality or the county court of any county within which the airport is located.

Section 88. KRS 183.490 is amended to read as follows:

The department, with the consent of the owner of a private airport, may, by resolution, reciting that any lands or property adjoining an airport are needed for purposes of establishing or expanding the airport and related facilities, direct the condemnation of such property. Whereupon, condemnation proceedings shall be conducted in the name of the department at the expense of the person owning or operating said airport, and the procedure for condemnation shall conform to the procedure set out in *the Eminent Domain Act of Kentucky* [KRS 416.120]. The department shall have no liability for the results of such proceedings, and all costs, damages and compensation awarded shall be paid by the owners or operators of such airport. Title shall vest in the person owning the airport. Such airport shall be a public use airport.

Section 89. KRS 196.140 is amended to read as follows:

When it is necessary for the department to own real estate for its use and it is unable to acquire such property by purchase, the department may condemn the real estate for its use and purposes in the manner set forth in *the Eminent Domain Act of Kentucky* [KRS 416.010 to 416.080].

Section 90. KRS 201.070 is amended to read as follows:

Whenever the board finds that property anywhere within the county is needed for any of the purposes contemplated in this chapter, the board may, by resolution reciting such need, order the condemnation of such property. Proceedings for condemnation shall be in the circuit court of the county, and shall be conducted in the name of the board by the city attorney of the city of the first class, who shall be the legal representative of the board, and the procedure shall be that set out in *the Eminent Domain Act of Kentucky* [KRS 416.120].

Section 91. KRS 212.590 is amended to read as follows:

The board shall have the power, by resolution reciting the need therefor and purpose thereof, to condemn real property located anywhere within such county. Eminent domain proceedings shall be [commenced in the circuit court of such county and shall be] conducted in the name of the board by the department of law of such city. The head of the department of law of such city or his assistant shall be the legal representative of the board in all matters and shall serve in that capacity without compensation from the board. In the exercise of its power of eminent domain, the board shall follow such proceedings as are *provided in the Eminent Domain Act of Kentucky* [in accord with the then existing law pertaining to the condemnation of real property for park purposes in cities of the first class in this commonwealth]. All property thus acquired by the board shall be held, used and controlled by it in the same manner as is all other property of the board.

Section 92. KRS 216.010 is amended to read as follows:

Any county containing a city of the second, third, fourth or fifth class may, through its fiscal court, establish and erect a hospital for the use of its citizens, and for that purpose the fiscal court may acquire by gift, purchase, lease or condemnation any land or property situated wholly in the county where the hospital is to be located, or any interest, franchise, easement, right or privilege therein that may be required for the purpose of constructing, furnishing, maintaining or operating the hospital. The method of condemnation of property shall be *as provided in the Eminent Domain Act of Kentucky* [the same as that provided for the condemnation of property for public purposes].

Section 93. KRS 216.805 is amended to read as follows:

The authority may:

(1) Acquire, construct, reconstruct, maintain, repair, operate, and regulate, health projects including appropriately designed housing for elderly citizens at such locations within the commonwealth of Kentucky, as may be determined by the authority;

(2) Acquire any interests in real property pursuant to the condemnation procedures of *the Eminent Domain Act of Kentucky* [KRS chapter 416 or KRS 177.081 to 177.089];

(3) Notwithstanding KRS chapter 56, the authority may issue revenue bonds payable solely from the charges, revenues, rentals, and other funds pledged for their payment, for the purpose of paying all or any part of the cost of any project or for the acquisition of property;

(4) Sell any building, structure, facility, or any interests in land to the commonwealth of Kentucky, the federal, city, or county government, or any person or corporation;

(5) Lease any interest in real property, any building, facility, or structure to the commonwealth of Kentucky, the federal, city, or county government or to any person or corporation;

(6) Fix and revise from time to time the charges and rent payments which will be paid by the different lessees for the use of the land, buildings and parking facilities;

(7) Combine for financing purposes any two (2) or more projects;

(8) Establish and enforce rules, specifications, and regulations for the construction and use of any project, except during any period when such powers are assigned to a lessee pursuant to a lease agreement;

(9) Notwithstanding KRS chapter 56, to acquire and hold in the name of the authority real and personal property in the exercise of its powers and the performance of its functions and duties under KRS 216.800 to 216.853, and to dispose of these interests in property;

(10) Make and enter into such contracts and agreements with the commonwealth of Kentucky or any federal, city, or county government or other person or corporation as may be necessary or incidental to the effectiveness of a project;

(11) Employ consulting engineers, attorneys, accountants, construction and financial experts, superintendents, managers, and such other employes and agents as may be necessary in the judgment of the authority, and to fix their compensation;

(12) Receive and accept from the commonwealth, the department, any federal agency, and the city or county, grants for or in aid of the construction of any project, and receive and accept aid or contributions from any source of either money, property, labor or other things of value, to be held, used and applied for the purposes for which such grants and contributions may be made; and

(13) Do all acts necessary and proper to carry out the powers expressly granted in KRS 216.800 to 216.853.

Section 94. KRS 220.310 is amended to read as follows:

The board of directors may, by resolution reciting the need, order the condemnation for the district of any real property or interest therein that may, in the opinion of the board, be necessary for the proposed construction of any structure authorized by KRS 220.010 to 220.520, and any property taken for a public use may again be taken by the district if necessary. Proceedings for condemnation shall be conducted in the manner prescribed in *the Eminent Domain Act of Kentucky* [KRS 416.010 to 416.080]. No payment or award in any condemnation proceedings or for the cost or expense of such proceedings shall be made except from the funds provided under the authority of KRS 220.010 to 220.520.

Section 95. KRS 224.130 is amended to read as follows:

Any corporation authorized to do business in this state and organized for the purpose of constructing, maintaining and operating sewer lines and sewage treatment facilities may, if it is unable to contract or agree with the owner after a good faith effort to do so, condemn rights-of-way necessary for constructing, maintaining and operating its pipelines and, if necessary, pumping stations; and the necessary ingress and egress to examine, alter, repair and maintain such pipelines. The condemnation proceedings shall be conducted in the manner provided in *the Eminent Domain Act of Kentucky* [KRS 416.230 to 416.310]. Provided, however, that before any corporation shall be authorized to use the provisions of this section, it shall have presented plans and specifications to the department of environmental protection and received from said department a permit to operate and maintain said sewage treatment facilities together with an approval of the discharge of the treated effluent from said facilities to a specific point of the waters of this commonwealth. Provided further that any person wishing to object to a pipeline or plant location subject to the provisions of this section shall have the right to have his objections heard by said department pursuant to the provisions of KRS 224.083.

Section 96. KRS 224A.070 is amended to read as follows:

The authority is expressly empowered to carry out and perform the following essential governmental functions of statewide import and concern:

(1) To adopt comprehensive rules, regulations and bylaws for the regulation of its affairs and the conduct of its business, which may define with specificity conditions precedent under which applications for state grants may be made and the order of priority upon which applications shall be acted upon;

(2) To retain an executive director, who shall be experienced and knowledgeable in the fields in which said authority is empowered to act, together with such other employes as shall be necessary and appropriate to enable the authority to fulfill its duties, functions and responsibilities;

(3) To adopt a corporate seal;

(4) To sue and be sued in its own name and to have the right, power, and authority to enforce its obligations and covenants made pursuant to the provisions of this chapter;

(5) To levy a tax on every purchase of water service in the Commonwealth of Kentucky, such tax to be equal to not more than two per cent (2%) of the gross amount of the bill for water services rendered;

(6) To approve or reject applications made to the authority for state grants;

(7) To make state grants to any governmental agency for the purpose of assisting such governmental agency in the construction of eligible projects. All such state grants shall be payable to the governmental agency in accordance with the terms and conditions of an assistance agreement by and between the authority and such governmental agency, which shall include the provisions and conditions specified in KRS 224A.100, and such other reasonable terms and conditions as the authority shall determine;

(8) Without reference to the provisions of KRS Chapter 56, to acquire and hold in the name of the authority, by the exercise of the power of eminent domain pursuant to *the Eminent Domain Act of Kentucky* [all authority specified in KRS 416.115], such real property or rights therein, including rights-of-way, easements and licenses, and such personal property as may be reasonably deemed necessary in order to effectuate the development, implementation, financing, and construction of any eligible project, and to make such properties available to governmental agencies in connection with eligible projects;

(9) To receive service charges from governmental agencies which have entered into assistance agreements with the authority, in accordance with the terms and conditions of such assistance agreements, and to use and employ such service charges in accordance with the provisions of this chapter, such service charges to constitute authority revenues;

(10) To enforce assistance agreements made and entered into with governmental agencies by suit, action, mandamus or other proceedings, including the obtaining by judicial decree of the appointment of a receiver to administer eligible projects partially financed by state grants which have been undertaken by governmental agencies;

(11) To have, possess and exercise all other powers reasonably incident to the carrying out of the duties and responsibilities of the authority.

Section 97. KRS 247.140 is amended to read as follows:

(1) The state fair board:

(a) Shall have the custody and control of such property as now is under its custody and control, and of such property as may hereafter be placed under its control or transferred to it by the state property and buildings commission, for any purposes mentioned in this section and the physical properties so under its custody and control or transferred to it are hereinafter referred to in this section, and in KRS 247.150 and 247.160, as the "state fair grounds and an area in a city of the first class to be used as an exhibition center."

(b) May erect and repair buildings on the state fair grounds and exhibition center, make any and all necessary or proper improvements, and generally carry on a program of development and extension of facilities designed to accomplish the objects defined in this section.

(c) Shall promote the progress of the state and stimulate public interest in the advantages and development of the state by providing the facilities of the state fair grounds for agricultural and industrial exhibitions, public gatherings, cultural activities, and other functions calculated to advance the educational, physical and cultural interests of the public and by providing the facilities of the exhibition center for conventions, trade shows, public gatherings and other functions calculated to advance and enhance the visitor industry, economy, entertainment, cultural and educational interests of the public.

(d) May hold an annual fair on the state fair grounds, for the exhibition of agricultural, mechanical, horticultural, dairy, forestry, poultry, livestock, mineral, and all other industrial interests of the state, and prepare premium lists and establish rules of exhibition for the fair.

(2) The state fair board may take, acquire and hold property, and all interest therein, by deed, gift, devise, bequest, lease, or eminent domain, or by transfer from the state property and buildings commission, and may dispose of any property so acquired in the manner provided by law. In the exercise of its power of eminent domain it *shall* [may] proceed in the manner provided in *the Eminent Domain Act of Kentucky* [KRS 416.115 or in the manner provided in KRS 416.120].

Section 98. KRS 249.580 is amended to read as follows:

The board of supervisors shall constitute a public body corporate with perpetual succession and power in its name to:

(1) Contract and be contracted with, sue and be sued, adopt bylaws and have and use a corporate seal.

(2) Levy ad valorem taxes upon all the taxable property within the district as provided in KRS 249.610.

(3) Take measures necessary and proper for the control of all species of mosquitoes and other arthropods of public health importance by providing for the construction and maintenance of impoundments of canals, ditches, drains, dikes, fills and other necessary works, installing and maintaining pumps, excavators, and other machinery and equipment, and employing larvicides and other control materials meeting the standards established by the department.

(4) Acquire by purchase, gift, grant, bequest, devise, or through condemnation proceedings in the manner provided in *the Eminent Domain Act of Kentucky* [KRS 416.010 to 416.080], such lands or rights of way as are necessary for the exercise of the authorized functions of the district.

(5) Hold, lease and convey real estate and personal property deemed necessary and proper to carry out the purposes of the mosquito control law.

(6) Employ a district superintendent who is an engineer, entomologist, or otherwise qualified as an arthropod control specialist, and other personnel required in performance of the authorized functions of the district.

(7) Borrow money in anticipation of revenue receipts to meet the current expenses of the district. Such current borrowing shall not exceed seventy-five per cent (75%) of the unrealized and unencumbered revenue estimated in the budget to be derived from the tax levy for the then current fiscal year.

(8) Conduct arthropod control measures in cooperation or by contract with individuals, firms, corporations, and federal, state and local governmental agencies.

Section 99. KRS 262.745 is amended to read as follows:

Subject to the approval of the board of supervisors, the board of directors of a watershed conservancy district shall have power to:

(1) Levy an annual tax on the real property within the district within the limitations provided in KRS 262.760 for administration, construction, operation and maintenance of works of improvement within the district.

(2) Acquire by purchase, gift, grant, bequest, devise, or through condemnation proceedings in the manner provided in *the Eminent Domain Act of Kentucky* [KRS 104.170], the fee simple title or any lesser interest in land including easements and flowage rights as are necessary for the exercise of any authorized function of the district, and for such purpose, may cause examinations and surveys to be made of any lands, easements or rights of way necessary for the performance of any authorized function of the district.

(3) Construct, improve, operate and maintain such structures as may be necessary for the performance of any function authorized by KRS 262.700 to 262.795.

(4) Borrow such money as is necessary for the purpose of acquiring lands or rights of way and establishing, constructing, reconstructing, repairing, enlarging and maintaining such structures and improvements as are required by the district in the performance of its functions, and issue, negotiate and sell its bonds as provided in KRS 262.750.

Section 100. KRS 266.130 is amended to read as follows:

The board of levee commissioners may enter upon, acquire, take and hold any lands or premises necessary and proper for locating, constructing, reconstructing, enlarging, extending, repairing and maintaining its line of levees, as well as for the cutting of ditches for the purpose of relieving the levees and the lands adjacent thereto enlarged by sipe and rain water. The board may also cut and remove trees, timbers and other materials that may, by falling or otherwise, encumber or endanger any levee. In case the owners cannot agree with the board as to the value of any property taken under authority of this section, the board may condemn the property in the manner provided in *the Eminent Domain Act of Kentucky* [KRS 416.010 to 416.080].

Section 101. KRS 267.280 is amended to read as follows:

If it is necessary to acquire a right of way or any outlet over or through lands not affected by the drainage, and the same cannot be acquired by purchase, the same may be condemned by the board. The owners of the land sought to be condemned shall be made parties to the proceeding, and the procedure shall be substantially as provided in *the Eminent Domain Act of Kentucky* [KRS 416.010 to 416.080]. The damages awarded shall be paid by the board out of the first funds available, before the land is taken, injured or destroyed, unless the party entitled thereto waives payment in advance.

Section 102. KRS 267.450 is amended to read as follows:

The owner of any land that has been assessed for the cost of any improvement may use the improvement as an outlet for lateral drains from his land. If the land is separated from the improvement by the land of another, and the owners are unable to agree as to the terms on which the one may enter the land of the other and construct the drain or ditch, he may file his ancillary petition in the pending proceeding, and have the same condemned in the same manner as provided in *the Eminent Domain Act of Kentucky* [KRS 416.010 to 416.080]. When the ditch is constructed it shall become a part of the drainage system and be under the control of, and kept in repair by, the board.

Section 103. KRS 268.280 is amended to read as follows:

(1) When the report of the appraisers is filed in the office of the clerk of the court, if it shows that any property is going to be taken, damaged or affected, the owner of which has not been brought into court by notice on the organization of the district, the clerk shall embrace the name of such owner and a description of the property in the notice to them given by him and in the public notice, that the report of the appraisers has been filed, and set a hearing on a day certain during the next succeeding term of court, which does not convene within less than ten (10) days from the day on which the report was filed in his office.

(2) The public notice given by the clerk shall be substantially as follows:

"Commonwealth of Kentucky.

"In re drainage district No. .... court of .... County (or of .... Counties), Kentucky.

"Notice is hereby given to all owners of property in (drainage), (levee), (reclamation) district known as (insert name of district), the boundaries of which district are as follows: (here insert boundary description and also a separate description of any property added by the appraisers, together with the name of the owner), and to all persons whose property may be affected, that the board of appraisers has filed in the office of the clerk of this court its report in which it states and shows the benefits, damages and the assessments of benefits made upon all property in the district, the classification thereof and an appraisal of the value of the property necessary to be taken or used, or which will be affected by the making of the improvement. This proceeding is set for hearing on the .... day of ...., 19.., being the .... day of the next .... term of court. The report is on file in my office and subject to inspection by any person. Any person desiring to file exceptions thereto, must do so on or before the .... day of ...., 19.., being the first day of the .... term of court. Your failure to file exceptions to the report by that date will be construed by the court that you have no reasons to offer why it should not be confirmed.

"Done by me as clerk of the .... court on this the .... day of ...., 19...

.... Clerk."

(3) The clerk shall post a copy of the above notice at the front door of the courthouse of the county where the proceeding is pending, within five (5) days after the report is filed in his office, and shall cause it to be published pursuant to KRS chapter 424. One (1) copy of each issue of each newspaper containing the notice

shall be filed by the clerk as a part of the record in the proceeding. On the first day of the term of court at which the report stands for hearing and trial, the clerk shall file in open court his certificate showing that he has published the notice as required. He shall sign the certificate officially and make it a part of the files of the proceedings. He shall make and attach a copy of his certificate to each duplicate copy of the report of the appraisers on file in his office.

(4) Owners shall have until and including the first day of the term of court at which the report is set for a hearing to file exceptions to it. All exceptions shall be heard and tried by the court on the day the proceeding is set for hearing pursuant to the preceding notice, unless further time be required. The trial of exceptions shall be by the court, except in cases where land is to be condemned, in which case it shall be by a jury as provided in *the Eminent Domain Act of Kentucky* [KRS 416.010 to 416.080].

Section 104. KRS 268.290 is amended to read as follows:

(1) If any exceptions are filed to the report of the appraisers, the board may effect an agreement with the person filing exceptions but no agreement shall become binding until approved by the court. If no agreement is effected, a trial shall be had upon the exceptions.

(2) A trial shall first be had on the exceptions to the assessment of damages, which shall, if demanded, be by jury, as provided by *the Eminent Domain Act of Kentucky* [KRS 416.010 to 416.080], and shall be governed in all respects by the same rules as therein provided. This shall apply to the damages assessed to the owners of land taken for rights of way, whether the lands or other property be within or without the (drainage), (levee), (reclamation) district. If it is necessary to acquire any right of way or outlet through any land not embraced in the district, it may be acquired in the same proceeding, and the value of the land to be taken and the damage to the adjacent lands used shall be determined in the same proceeding. All damages awarded either for land inside or outside of the district, or for lands actually taken, shall be paid by the board out of the first funds available for that purpose, and the board shall either pay in cash or make provisions for the payment thereof and secure the payment to the owner before the land is taken or damaged, unless the owner waives payment in advance. The trial of the exceptions to the damages assessed shall be completed before any hearing or trial is had upon any of the exceptions to the assessment of benefits or classification of property in the district.

(3) When the hearing is completed on the exceptions to the assessment of damages, the court shall hear and determine all exceptions to the assessment of benefits and classification of lands, which shall be heard by the court in a summary manner. The courts shall determine the correctness of the classification and assessment of benefits to each piece of property involved, when any exceptions have been filed to the report of the appraisers. The report of the appraisers shall be prima facie evidence of the fact that their findings are correct in all respects.

(4) If it appears to the court, after having heard and determined all exceptions, that the estimated cost of the construction of the proposed improvement contemplated in the plan of reclamation is less than the benefits properly assessed against the property, the court shall then approve and confirm the report of the appraisers as to the classification and assessment of benefits as amended or modified by the court. The order of the court approving and confirming the report of the appraisers shall also contain the judgment of the court relating to the condemnation of property to be taken or damaged.

(5) If a majority of the owners at this time desire to abandon the proposed improvement, they may do so by showing that its cost exceeds the benefit accruing to the property in the district. If this is shown, the court shall dismiss the proceeding. After the report of the appraisers has been filed, if the owners of seventy-five per cent (75%) of the land in the district, or any part of it which is practically separated from the rest, file a petition in the court in which the proceeding is pending stating that they desire to abandon the proposed improvement, the court shall dismiss the proceeding at the cost of the landowners.

(6) Any person may appeal from the judgment of the court, either upon the question of classification or the assessment of benefits or damages. The appeal shall be prosecuted in the same manner and within the time provided for in KRS 268.020. No person shall be allowed to raise any question he did not raise in his exceptions to the report of the appraisers in the trial court. The appeal shall not in any way stay the proceedings or affect the classification or the assessment of benefits or damages to any property not directly involved in the appeal, or prevent the execution of the judgment, except that particular part from which the appeal is prosecuted. The judgment shall be construed as a several judgment as to each piece of property.

Section 105. KRS 268.510 is amended to read as follows:

(1) In order to effect the drainage, protection and reclamation of the land and other property in any district organized under this chapter subject to assessment, to protect cities from overflow, and to promote the public health or general welfare of the community, the board acting for the district may clean out, alter, construct or maintain any drain in or out of the district, and construct and maintain any levees, dikes, dams, revetments, reservoirs, holding basins, floodways, pumping stations, syphons and any other work and improvements deemed necessary to preserve and maintain the works or prevent overflow of land or protect

any city or parts thereof in or out of the district. The board may construct or enlarge any bridge needed in or out of the district across any drain or other improvement or any public highway, railroad right of way, track, grade, fill or cut, subject to the provisions of KRS 268.530; construct roadways upon, along and over levees and embankments; remove any fence, building or improvement in or out of the district.

(2) The board may hold, control and acquire by donation or purchase, or, if need be, condemn any land, easement, railroad right of way, sluice, conduit, sewer, holding basin or franchise in or out of the district for any purpose provided for in this chapter.

(a) The board may also condemn, in the manner provided in *the Eminent Domain Act of Kentucky* [KRS 416.010 to 416.080], for the use of the district any property within or without the district not acquired or condemned by the court on the report of the appraisers.

(3) The board may control all water power created by the construction of improvements in the district, and construct and maintain any hydroelectric power plants to develop such power for the use of the district and use any funds in the treasury of the district not otherwise appropriated for the construction and maintenance of such plants. The board may lease any power in excess of that required for the use of the district. The proceeds of such lease shall be turned into the treasury of the district.

(4) However, the construction or maintenance of any improvement shall not impair navigation upon any navigable stream in this state.

Section 106. KRS 268.570 is amended to read as follows:

Any owner may use the drain as an outlet for lateral ditches from his land. If his land is separated from the drain by the land of another and they are unable to agree as to the conditions on which one may enter another's land and construct the ditch, he may file his ancillary petition in the pending proceeding to the court, and secure condemnation as provided for in *the Eminent Domain Act of Kentucky* [KRS 416.010 to 416.080]. When the ditch is constructed, it shall become a part of the drainage system and shall be under the control of the board and kept in repair by it.

Section 107. KRS 269.070 is amended to read as follows:

Any county may remove any ponds, pools or swamp marshes, or reclaim swamp land that may cause sickness in the county, by ditching, leveeing or cleaning out logs and brush that may cause any creek to scatter or form pools of stagnant water. The cost shall be paid for out of the county levy or by taxation of the property in the county subject to taxation for state purposes. When the fiscal court undertakes such a project it may acquire for the county by contract or condemnation any land necessary to carry out the project. If condemnation proceedings are necessary, they shall be conducted in the manner provided in *the Eminent Domain Act of Kentucky* [KRS 416.010 to 416.080].

Section 108. KRS 269.210 is amended to read as follows:

The corporation may extend its ditches, make other ditches, connect with any creek or stream and straighten or cut across any curve to facilitate drainage, and, when necessary, take the lands of private persons. The corporation is vested with the right and power of eminent domain for the condemnation of land that may be necessary, which remedy shall be pursued as provided by *the Eminent Domain Act of Kentucky* [KRS 416.100 or 416.110], the proceedings to be brought by the corporation in the county court, providing due compensation to the owners of land.

Section 109. KRS 269.270 is amended to read as follows:

(1) The county court in each county of this commonwealth, wherein the fiscal court has requested it, is hereby authorized to establish a county-wide surface water drainage district for the entire county including all municipalities. The cost of procuring the necessary rights of way and the construction and maintenance of such county-wide drainage district shall be paid by the fiscal court out of the annual levy for county taxes. When the fiscal court undertakes such a project it may acquire for the county by contract or condemnation any land necessary to carry out the project. If condemnation proceedings are necessary they shall be conducted in the manner provided in *the Eminent Domain Act of Kentucky* [KRS 416.010 to 416.080].

(2) The administration of this district shall be exclusively by or within the fiscal court of said county, and the fiscal court is hereby authorized and empowered to employ such assistants, including commissioners or superintendent, and other employes as may be necessary for the construction, maintenance and continued operation of said system, and shall fix the salaries of all employes to be paid as other county employes are paid.

(3) In the construction and maintenance of such drainage system the fiscal court is authorized and empowered, as a part of the cost of construction and maintenance of said system, to build or construct such bridges and culverts over and across the ditches or canals of this system as in the opinion of the fiscal court are necessary.

(4) Nothing herein contained shall authorize or empower the construction or maintenance of a sanitary sewer system or sanitary sewers.

Section 110. KRS 277.040 is amended to read as follows:

Any person operating a mine or a stone quarry within three (3) miles of any railroad or navigable stream may, for the purpose of transporting material between the railroad or stream and the mine or quarry, construct and operate a line of railroad, truck road, overhead conveyor, or pipeline from the mine or quarry to the most convenient and accessible point on the railroad or stream, and may, under *the Eminent Domain Act of Kentucky* [KRS 416.010 to 416.080], condemn the land necessary for track, truck road, or supports for conveyor, or pipeline, not exceeding fifty (50) feet in width for each track, roadway, conveyor, or pipeline necessarily constructed, and the land for necessary buildings at the railroad or stream, not exceeding two (2) acres. The owner or operator of such railroad shall be governed by the laws relating to other railroads, so far as applicable, and shall have the same rights and privileges granted to corporations owning and operating railroads.

Section 111. KRS 277.050 is amended to read as follows:

Any corporation organized under the laws of this or any other state for the purpose of constructing, maintaining or operating union railway stations for passengers or freight may, except in cities of the first class, acquire by condemnation, in the manner prescribed by *the Eminent Domain Act of Kentucky* [KRS 416,010 to 416.080], such lands and material in this state as it deems to be reasonably necessary for the purpose of constructing, maintaining and operating such union railway stations and the usual or proper tracks, platforms, sheds, approaches and other appurtenances thereto.

Section 112. KRS 277.060 is amended to read as follows:

(1) Every railroad company may:

(a) Cause such examinations and surveys to be made as are necessary to the selection of the most advantageous route for its proposed railroad, and for that purpose its officers, agents and servants may enter upon the property of any person, subject to liability for all damage done by them to such property.

(b) Receive, hold and take possession of any voluntary grants and donations of property made to it to aid in the construction, maintenance and operation of the road; any real property so received shall be held and used for the purposes of the grant or donation only.

(c) Purchase, hold, take possession of and use all franchises and property necessary for the construction, maintenance and accommodation of its line of railroads, but the same shall not be taken or appropriated without the consent of the owner until the compensation to be made therefor is agreed upon or ascertained, and paid or deposited, as provided by *the Eminent Domain Act of Kentucky* [KRS 416.010 to 416.080].

(d) Lay out and construct its road not exceeding one hundred (100) feet in width, unless more than one track is laid, in which case the width may be extended not exceeding fifty (50) feet for each additional track.

(e) Take, in the manner provided by *the Eminent Domain Act of Kentucky* [KRS 416.010 to 416.080] such lands in the vicinity of or adjacent to its road as are necessary for cuts or embankments, the procurement of stone, gravel or other materials, or for draining the roadbed.

(f) Change, when it deems proper, the gauge of its road.

(g) Change the location or grade of any portion of its road for any reasonable cause, but shall not, except as otherwise provided by law, depart from the general route prescribed in the articles of incorporation.

(h) Construct its road upon or across any private road, highway, street, lane or alley, and across any railroad, canal or watercourse.

(2) Every railroad company shall restore to its former condition, as near as may be, any private road, highway, street, lane, alley, railroad, canal or watercourse upon or across which it has constructed its road, and shall maintain the same in that condition within the right of way of the railroad company. It shall construct suitable road and street crossings for the passage of traffic by putting down planks or other suitable material between and on each side of the rails, the top of which shall be at least as high as the top of the rails.

(3) If the railroad is constructed upon any public street or alley, the construction shall be upon such terms and conditions as are agreed upon between the company and the authorities of the city, and the road shall not be constructed until compensation is made, either by agreement or in the manner provided by *the Eminent Domain Act of Kentucky* [KRS 416.010 to 416.080], to the owners of the property adjoining those parts of the street or alley on which the road is to be constructed.

(4) Any railroad company may build such spurs, switches, tracks or branches as are necessary to conduct its business or develop business along its line of road, and for that purpose shall have the same powers and be subject to the same restrictions and liabilities as are conferred or imposed upon it for the construction of its main line.

Section 113. KRS 278.502 is amended to read as follows:

Any corporation or partnership organized for the purpose of, and any individual engaged in or proposing to engage in, constructing, maintaining or operating oil or gas wells or pipelines for transporting or delivering oil or gas in public service may, if it is unable to contract or agree with the owner after a good faith effort to do so, condemn the lands and material or the use and occupation of the lands that are necessary for constructing, maintaining, drilling, utilizing and operating pipelines, underground oil or gas storage fields and wells giving access thereto and all necessary machinery, equipment, pumping stations, appliances and fixtures, including tanks and telephone lines, and other communication facilities, for use in connection therewith, and the necessary rights of ingress and egress to construct, examine, alter, repair, maintain, operate or remove such pipelines or underground gas storage fields, to drill new wells and utilize existing wells in connection therewith, and remove pipe, casing, equipment and other facilities relating to such underground storage fields and access wells. The proceedings for condemnation shall be as provided in *the Eminent Domain Act of Kentucky* [KRS 416.010 to 416.080 or as provided in KRS 416.230 to 416.310].

Section 114. KRS 278.540 is amended to read as follows:

(1) Any telephone company or telegraph company authorized to do business in this state shall, upon making just compensation, have the right to construct, maintain and operate its lines through any public lands of this state and on, across and along any public road, and across and under any navigable waters, but not in such a manner as to interfere with travel on the road or to obstruct the navigation of the waters.

(2) Any telephone company authorized to do business in this state may, by contract with any person, construct, maintain and operate telephone lines on and across the real property of that person, and if it cannot obtain the right of way by contract it may, except as provided in KRS 416.090, condemn the right of way in the manner provided in *the Eminent Domain Act of Kentucky* [KRS 416.150 to 416.200].

(3) Any telegraph company authorized to do business in this state that desires to construct, operate and maintain its lines on or along the right of way and structure of any railroad may, through an authorized agent, contract with the railroad company for that right.

(4) The parts of this section relating to the rights of telephone companies do not apply to any city.

Section 115. KRS 279.110 is amended to read as follows:

Any corporation created under this chapter may:

(1) Acquire and hold any property necessary or incidental to the proper conduct of its business, including preferred stock and common stock or other corporations whether formed under this chapter or not, and the stock of any federal agency, and may pay for any such property in cash, property or on credit, or both, and secure and procure payment of all or any part of the purchase price thereof on such terms and conditions as its board of directors determines.

(2) Acquire, own, operate, maintain and improve one or more systems.

(3) Pledge all or part of its revenue or mortgage or encumber all or any part of its property for the purpose of securing the payment of the principal and interest of any of its obligations.

(4) Have and exercise the right of eminent domain in the manner provided in *the Eminent Domain Act of Kentucky* [KRS 416.010 to 416.080 or in the manner provided in KRS 416.230 to 416.300 as the corporation may elect].

(5) Construct, own, lease, operate and control any facilities across, along or under any street or public highway, and over any lands belonging to this state or to any county, city or political subdivision of this state, but shall restore any such street or highway to its former condition as nearly as possible and shall not use it in such a manner as to impair unnecessarily its usefulness.

(6) Accept gifts and grants of money or property from this state, any county, city or political subdivision of this state, any federal agency, or any other person, and accept voluntary and uncompensated services.

(7) Make any contract necessary or convenient for the full exercise of the powers granted by this chapter, or for any other corporate purpose, subject to any limitations imposed by this chapter.

(8) Sell, lease or dispose of all or any part of its property, subject to the provisions of KRS 279.140.

(9) Contract debts, borrow money without limitation as to the amount of corporate indebtedness or liability, and issue or assume obligations.

(10) Fix and collect reasonable rates and charges for services, subject to the provisions of KRS Chapter 278.

(11) Assist its members in wiring their premises for the use of electric energy and in purchasing electrical equipment, appliances and supplies, and in financing such activities.

(12) Do anything not specifically set forth in this section that is reasonably deemed necessary, proper or convenient for the accomplishment of the purposes of the corporation and is not prohibited by law.

Section 116. KRS 280.210 is amended to read as follows:

(1) If any applicant for a ferry privilege owns or has the right to use the land proposed as the site of the ferry only on one (1) side of the stream, and the landing on the opposite side is not at an established public highway, the *applicant may, pursuant to the Eminent Domain Act of Kentucky, condemn* [court, before granting the ferry privilege, shall issue a writ of ad quod damnum to ascertain the damage the owner of the land on the opposite side will sustain by establishing over his land] the necessary right of way, *not* [nor] more than forty (40) feet wide, for the use of the ferry. [The owner of the land on the opposite side must first be given reasonable notice of the intended application for the writ. If the court does not approve the assessment when returned, it shall issue a new writ. If the court approves the assessment, it shall, upon payment of the amount assessed into court for the benefit of the owner, condemn the right of way for the public use as a highway. If the land over which the right of way is sought is in another county, the writ of ad quod damnum shall be directed to the sheriff of that county.]

(2) Any person having an established ferry on any river in this state may have condemned, for a period of twenty (20) years or permanently, at his option, not more than one-half (1/2) acre of land adjacent to the ferry for any purpose necessary for the use of the ferry *pursuant to the Eminent Domain Act of Kentucky.* [Such person shall, after giving ten (10) days' notice to the owner of the land, apply to and obtain from the county court in which the land is situated a writ of ad quod damnum to ascertain the damages to the owner of the land. The writ may include the right to cut and remove any timber or other obstructions on the bank of the river, so as to clear them out of the way of the ferry. The writ shall be directed to the sheriff of the county, who shall proceed to execute it in the manner provided by subsection (1) of this section. The person having the land condemned shall acquire no right in it until the damages assessed and the costs of the proceedings are paid, and when they have been paid the sheriff shall convey the land so condemned to the applicant.]

Section 117. KRS 280.230 is amended to read as follows:

If no owner of the land on either side of the stream over which a public highway passes will obtain the ferry privilege, or if such an owner, after obtaining the privilege, abandons it or fails to keep it up according to law, the county court may, after reasonable notice, grant the privilege to another. When it is necessary to the proper exercise of the privilege by such grantee, the court may cause to be condemned permanently, or for not more than twenty (20) years, at the option of the owner of the privilege, not more than two (2) acres of ground adjoining the landing, together with the use, for ferry purposes, of any adjacent uninclosed bank of the stream. *Condemnation shall be pursuant to the Eminent Domain Act of Kentucky.* [Before the final grant of the property and the use of the bank, the damage to the owner of the land shall be ascertained under a writ of ad quod damnum, and the amount thereof paid into court for the use of the owner.]

Section 118. KRS 350.152 is amended to read as follows:

(1) The commonwealth, acting by and through its department of environmental protection, shall have the power to acquire, either by negotiation or by exercise of the power of eminent domain, land which has been affected or disturbed by strip or auger mining, which consists of orphan banks or unreclaimed spoil piles.

(2) Prior to acquiring any land pursuant to KRS 350.152 to 350.163 and 350.240, the department of environmental protection shall extend to the owners thereof an opportunity to backfill, grade, plant and do other acts of restoration thereon to the same extent and within the same time limits as prescribed by KRS chapter 350 and regulations adopted pursuant thereto. If the owner or owners agree in writing to perform such restoration and, weather permitting, start such restoration within a period of thirty (30) days, the land shall not be acquired by the commonwealth.

(3) The department of environmental protection shall attempt to purchase any land which it has determined should be acquired for the purpose of restoration and which the owners have not agreed to restore as provided in subsection (2) above. In any case where the department and the owners of the land are unable to agree upon the amount to be paid for the land, the department may exercise the power of eminent domain against such land by filing a condemnation suit under *the* [any] procedure *of the Eminent Domain Act of Kentucky* [as provided in KRS chapter 416].

(4) The purchase price, in the case of a negotiated acquisition, or the damages as finally determined, in the case of acquisition by condemnation, and the necessary expenses incidental thereto, shall be paid from appropriations made by the general assembly for such purposes and appropriations to which federal funds made available for such purposes have been credited.

Section 119. KRS 381.660 is amended to read as follows:

When the owner or lessee of a salt, or other well or spring, or stream or body of water, desires to convey the water therefrom to a point more convenient by means of pipes underground, he may, if necessary, condemn the use of so much land of another as is needed for the purpose. The procedure for condemnation shall be that set forth in *the Eminent Domain Act of Kentucky* [KRS 416.010 to 416.080].

Section 120. KRS 416.010 is amended to read as follows:

When any company authorized to construct a railroad is unable to contract with the owner of any land or material necessary for its use for the purpose thereof, it shall *institute a condemnation action pursuant to the Eminent Domain Act of Kentucky* [file, in the office of the county clerk of the county in which the land or material is located, a particular description of the land or material sought to be condemned, and apply to the county court to appoint commissioners to assess the damages the owner thereof is entitled to receive].

Section 121. KRS 416.100 is amended to read as follows:

(1) When any county court desires to condemn land under the authority of KRS 178.110, the county court shall *proceed pursuant to the Eminent Domain Act of Kentucky.* [appoint three impartial housekeepers of the county as commissioners to assess the damages the owner or tenant may be entitled to receive. The commissioners shall be sworn to faithfully and impartially discharge their duties according to law.

(2) Either the county or any tenant or owner may file exceptions to the report of the commissioners. If exceptions are filed by either party, the court shall, unless the parties waive a jury, forthwith cause a jury to be impaneled to try the issues and to assess compensation and damages.]

Section 122. KRS 416.110 is amended to read as follows:

(1) When any fiscal court desires to condemn land under the authority of KRS 178.120, it shall adopt a resolution ordering the condemnation of the required land. The resolution shall set forth the facts contemplated by KRS 178.120, give a general description of the land, and the name of the owner if known, and shall direct the county attorney to institute the proceedings.

(2) The county attorney shall file the petition for condemnation in the county court in the name of the county, and shall attach to the petition as an exhibit a certified copy of the resolution of the fiscal court. The resolution shall be prima facie evidence of the public use and necessity for the condemnation. Thereafter the proceedings shall be as provided in *the Eminent Domain Act of Kentucky.* [KRS 416.020 to 416.080, with the following exceptions:

(a) The "value of the land," as used in KRS 416.020, shall be the market value thereof, including the value of any trees or shrubbery taken and the market replacement value of fencing similar to any taken, and in the commissioners' report each of these items shall be stated separately, in addition to stating separately the incidental damages to adjacent land.

(b) The trial on exceptions shall be held on a day fixed by the court, rather than forthwith.

(c) The jury shall not be sent to view the land until after all testimony has been submitted to it.

(d) If the county appeals to the circuit court, it need not file a supersedeas bond.

(e) On appeal to the circuit court, a certified copy of the judgment of the county court shall be filed in lieu of a transcript of the orders of the county court.

(f) If, an appeal by the owner, the award of damages is not increased, or if, an appeal by the county, the award of damages is reduced, the owner shall, in addition to paying the costs of the appeal, repay to the county any sum he has received in excess of the amount awarded to him by the circuit court, plus interest at six percent on the difference between the awards from the date of the county court judgment, whether or not he has received the same. If, on appeal by the owner, the award of damages is increased, or if, on appeal by the county, the award is not reduced, the county shall, in addition to the costs of the appeal, pay interest at the rate of six percent on the difference between the awards.

(g) The county shall be entitled to take possession of the land condemned and to use and control the land for the purpose for which it was condemned, as fully as if title had been conveyed to the county, upon paying to the owner the damages awarded by the commissioners' report, where the report is confirmed, or paying into court the damages awarded by the jury, together with all costs adjudged to the owner.

(3) This section and KRS 178.120 constitute an additional and alternative method for the institution and prosecution of condemnation proceedings to acquire right of ways for county roads, streets, alleys, ditches and bridges.]

Section 123. KRS 416.120 is amended to read as follows:

Proceedings for condemnation by the director of parks and recreation of cities of the first class as authorized by KRS 97.257 shall be in *accordance with the Eminent Domain Act of Kentucky.* [the circuit court, conducted in the name of the city by the director of law of such city, and shall be commenced by petition and summons, and carried on in a manner similar to actions at law, except that in proceedings against nonresident, absent and unknown defendants the city shall not be required to post bond as provided under CR 4.11. In any such actions the owners of distinct parts of any one general tract sought to be condemned may be included in one proceeding, or any one or more of such owners holding contiguous properties may be proceeded against in a separate action. Trial of such actions shall be by a jury summoned under order of court and consisting of twelve freeholders of such city or county, who shall be sworn to ascertain and determine fairly and impartially by their verdict the amount of compensation each and every owner shall be entitled to receive for his or her land or property described in the petition and sought to be condemned. The city shall have the burden of proving the value of the property to be condemned; and in assessing damages to the owner of the property it shall be competent for the jury to consider the benefits and advantages, if any, that to such owner will result from the proposed improvements, and to set off the same against such damages as the owner may have other than the value of the property actually condemned and taken by the city. Nonresidents, absent defendants, or unknown owners of property shall be proceeded against by warning order as in other civil actions. Any condemnation proceeding shall have precedence on the docket of the court and may be assigned for trial as soon as the parties are before the court. Upon return of the verdict of the jury, the court shall enter judgment vesting in such city the title to the property described and condemned, the said judgment to take effect upon the payment into the court by said city of the amount of money named in the verdict, and all taxed costs of the proceedings, and said city shall have sixty days within which to make said compensation and payment; provided, however, if payment be not made within such time, the said condemnation shall be deemed and treated as abandoned, and the verdict and judgment set aside, and the proceedings dismissed at the cost of said city, but without prejudice to any subsequent proceedings.]

Section 124. KRS 416.130 is amended to read as follows:

(1) Every corporation organized for the purpose of constructing, or empowered to construct, a dam in any stream in this state for the purpose of improving navigation or developing, distributing and selling water power or electricity, and every corporation authorized under the laws of this state to conduct the business of producing and supplying electricity for the purpose of light, heat or power, may cause examinations and surveys to be made for its proposed dams, reservoirs, ponds, locks, bridges, power stations, roads, conduits and transmission lines, as well as the land that may be overflowed by the erection of any dam or other structure, and for such purposes may, by its officers, agents or servants, enter from time to time upon any lands or waters for the purpose of making such surveys or examinations, subject to liability for actual damage done. Before entering upon any land for such purposes, the corporation shall deposit with the clerk of the county in which the property is located, a bond to the Commonwealth in a penal sum fixed by the county court at not more than double the last assessed valuation of the property to be surveyed or examined, conditioned to indemnify all persons for actual damages sustained on account of making any examination or survey. When the location of the dam or other structure, and the land that may be overflowed by the erection of the dam, is determined, the corporation shall cause a survey and map to be made of the land to be taken and entered upon, which map shall be signed by the president and secretary and filed in the office of the clerk of the county court of the county in which the land shown on the map is situated.

(2) When any such corporation cannot, by agreement with the owner, acquire the property rights, privileges or easements needed for any of the uses or purposes referred to in subsection (1) of this section, the corporation may condemn such property, property rights, privileges or easements [either] in the manner provided in *the Eminent Domain Act of Kentucky* [KRS 416.010 to 416.080, or in the manner provided by KRS 416.230 to 416.310. A corporation may elect to proceed under either of the aforesaid acts]. Any corporation constructing or maintaining such dam shall be liable for any damages resulting from overflowing any property, public or private.

Section 125. KRS 416.150 is amended to read as follows:

Any telephone company desiring to condemn a right of way under the authority of subsection (2) of KRS 278.540 *shall proceed pursuant to the Eminent Domain Act of Kentucky.* [may file its petition for condemnation, verified by its agent, in the office of the clerk of the county court of the county in which the right of way sought to be condemned is located. The petition shall designate the owner of the land and the particular right of way sought to be condemned, and shall state the name of the petitioner, where and how incorporated, in what manner and with what kind of material it proposes to construct its telephone line, and that it has complied with the Constitution and laws of this state in regard to such corporations seeking to exercise the right of eminent domain. An application in writing by an authorized agent of the telephone company, proposing to agree with the owner of the land upon the compensation to be paid and offering a sum certain for such right of way, not accepted in writing by the owner or someone duly authorized by him within ten days after delivery of the offer to him, may be treated as a failure to agree authorizing condemnation.]

Section 126. KRS 416.210 is amended to read as follows:

Any burial association or corporation may condemn land by first recording, in the county clerk's office of the county where the land lies, a resolution that it needs the land to furnish a burial site for the public. It may condemn a sufficient roadway to have access to the land, not wider than one hundred feet. It may also condemn enough land, not exceeding five acres, adjacent to any land used for a cemetery for a chapel site. If the building of any state highway requires a change in the entrance to any cemetery, the burial association or corporation may condemn any adjacent land, not wider than one hundred feet for the new entrance. The condemnation procedure shall be in the manner provided in *the Eminent Domain Act of Kentucky* [KRS 416.010 to 416.080]. This section shall not permit condemnation of more than forty acres at any one time.

Section 127. KRS 416.220 is amended to read as follows:

(1) The owner of real estate serving the public, providing sleeping accommodations and meals, when pure water is not available in adequate quantities, shall have the right to condemn on the banks of any navigable stream a tract of land not more than twenty feet square and above the high water mark for a pumping station site and a right-of-way for a pipe line from said site to the deep water of the navigable stream and from said pumping station site to the point on the owner's real estate where the water is desired for use. The said property owner may condemn a right-of-way for an electric power line over the most direct course to the pumping station site. In the event the owner of such real estate finds it more desirable to make connections with the water system of a municipality or a water supply line leading from a navigable stream to the municipality or other source of supply, then said real estate owner may, at his option, condemn a right-of-way for a pipe line from said city water system or water supply line or other source of supply to the point on the owner's real estate where the water is desired for use, including such area as may be required to install and maintain pumps and meters for said water system and an electric line to conduct power to said pump with necessary electric control lines or apparatus. The owner of property condemning right-of-way for a water line under this section, may agree to supply the subject owner a quantity of water in lieu of cash compensation for the easement, and such agreement to supply water to the subject property owner shall not be construed to place a burden on the condemning party to supply water service to others or meet the obligation of a public utility to render water service.

(2) The provisions of KRS 381.660, 381.670, and 381.680 shall be complied with except that when the pumping station site and pipe line are located on cliff land and do not cross any tillable land the pumps and pipe may be located above ground.

(3) The procedure for condemnation shall be that set forth in *the Eminent Domain Act of Kentucky* [KRS 416.010 to 416.080].

Section 128. KRS 416.230 is amended to read as follows:

A corporation, partnership or individual seeking to condemn lands and material or the use and occupation of lands, under the provisions of KRS 278.502, may file a verified petition in the office of the county court clerk of the county in which all or the greater portion of the land and material is located. The petition shall state that it is filed under the provisions of KRS 278.502 and *shall be conducted pursuant to the Eminent Domain Act of Kentucky* [KRS 416.230 to 416.310 and shall contain, in substance:

(1) Allegations sufficient to show that petitioner is entitled, under the provisions of KRS 278.502, to condemn the lands and material or the use and occupation of the lands in question;

(2) A particular description of the land, the use and occupation thereof and the material sought to be condemned; and

(3) An application to the county court to appoint commissioners to award the amount of compensation the owner thereof is entitled to receive therefor].

Section 129. KRS 416.340 is amended to read as follows:

Any water association supplying water to no less than 100 customers, which has been formed under the provisions of KRS Chapter 273, may exercise the power of eminent domain in accordance with the provisions of *the Eminent Domain Act of Kentucky* [KRS 416.010 to 416.080].

Section 130. KRS 94.690, 94.700, 94.710, 94.720, 96.610, 96.620, 96.630, 106.240, 108A.080, 177.083, 177.084, 177.085, 177.086, 177.087, 177.088, 177.089, 381.580, 381.590, 381.600, 381.610, 381.620, 381.630, 416.015, 416.020, 416.030, 416.040, 416.050, 416.060, 416.070, 416.080, 416.115, 416.160, 416.170, 416.180, 416.190, 416.200, 416.240, 416.250, 416.260, 416.270, 416.280, 416.290, 416.300, 416.310, 416.320, 416.410, 416.420, 416.430, 416.440, 416.450, 416.460, 416.470, 416.480, 416.490, 416.500, 416.510, 416.520, and 416.530 are repealed.

The Committee Substitute to **HB 93** is as follows:

HB 93, AN ACT relating to eminent domain.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 416 IS CREATED TO READ AS FOLLOWS:
This Act shall be known as the "Eminent Domain Act of Kentucky."

SECTION 2. A NEW SECTION OF KRS CHAPTER 416 IS CREATED TO READ AS FOLLOWS:

(1) "Condemn" means to take private property for a public purpose under the right of eminent domain;

(2) "Condemnor" shall mean and include any person, corporation or entity, including the commonwealth of Kentucky, its agencies and departments, county, municipality and taxing district authorized and empowered by law to exercise the right of eminent domain;

(3) "Condemnee" means the owner of the property interest being taken;

(4) "Court" means the circuit court;

(5) "Property" means real or personal property, or both, of any nature or kind that is subject to condemnation;

(6) "Eminent domain" means the right of the commonwealth to take for a public purpose and shall include the right of private persons, corporations or business entities to do so under authority of law.

SECTION 3. A NEW SECTION OF KRS CHAPTER 416 IS CREATED TO READ AS FOLLOWS:
Whenever any condemnor cannot, by agreement with the owner thereof, acquire the property right, privileges or easements needed for any of the uses or purposes for which the condemnor is authorized by law, to exercise its right of eminent domain, the condemnor may condemn such property, property rights, privileges or easements pursuant to the provisions of this Act. It is not a prerequisite to an action to attempt to agree with an owner who is unknown or who, after reasonable effort, cannot be found within the state or with an owner who is under a disability.

SECTION 4. A NEW SECTION OF KRS CHAPTER 416 IS CREATED TO READ AS FOLLOWS:
Prior to the filing of the petition to condemn, the condemnor or its employes or agents shall have the right to enter upon any land or improvement which it has the power to condemn, in order to make studies, surveys, tests, sounding and appraisals, provided that the owner of the land or the party in whose name the property is assessed has been notified ten days prior to entry on the property. Any actual damages sustained by the owner of a property interest in the property entered upon by the condemnor shall be paid by the condemnor and shall be assessed by the court or the court may refer the matter to commissioners to ascertain and assess the damages sustained by the condemnee, which award shall be subject to appeal.

SECTION 5. A NEW SECTION OF KRS CHAPTER 416 IS CREATED TO READ AS FOLLOWS:
A condemnor seeking to condemn property or the use and occupation thereof, shall file a verified petition in the circuit court of the county in which all or the greater portion of the property sought to be condemned is located, which petition shall state that it is filed under the provisions of this Act and shall contain, in substance:

(1) Allegations sufficient to show that the petitioner is entitled, under the provisions of applicable law, to exercise the right of eminent domain and to condemn the property, or the use and occupation thereof, sought to be taken in such proceedings;

(2) A particular description of the property and the use and occupation thereof sought to be condemned; and

(3) An application to the court to appoint commissioners to award the amount of compensation the owner of the property sought to be condemned is entitled to receive therefor.

SECTION 6. A NEW SECTION OF KRS CHAPTER 416 IS CREATED TO READ AS FOLLOWS:

(1) The circuit court, or in the absence of the circuit judge from the county, the circuit court clerk, shall appoint as commissioners three impartial housekeepers of the county who are owners of land. They shall be sworn to faithfully and impartially discharge their duties under this section. The commissioners shall view the land or material sought to be condemned and award to the owner or owners such a sum as will fairly represent the reduction in the market value of the entire property, all of or a portion of which is sought to be condemned, said sum being the difference between the market value of the entire property immediately before the taking and the market value of the remainder of the property immediately after the taking thereof, together with the fair rental value of any temporary easements sought to be condemned. Within fifteen days from the date of their appointment, they shall return a written report to the office of the circuit court, stating the above values in their award and shall describe in their report the property sought to be condemned. They shall be allowed a reasonable fee which shall be taxed as costs.

(2) In the event any person appointed to serve as commissioner fails, refuses or becomes incapable of acting, the court, or judge thereof, shall forthwith appoint a qualified person to fill the vacancy. A majority of the commissioners appointed and qualified have the power to act and to make and sign the award and report. If a majority of the commissioners do not agree on a decision, three new commissioners shall be appointed by

the court on application by any of the parties to the action.

SECTION 7. A NEW SECTION OF KRS CHAPTER 416 IS CREATED TO READ AS FOLLOWS:

Upon the application of the petitioner, and the filing of any necessary affidavits, the clerk of the court shall issue process against the owner to show cause why the petitioner does not have the right to condemn the lands, or the use and occupation thereof sought to be condemned. The summons shall contain a statement of the amount of the award and shall state that an answer or other pleading, if any, must be filed within twenty days from date of service. The clerk shall make such orders as to nonresidents and persons under disability as are required by the statutes and Rules of Civil Procedure in actions against them in circuit courts.

SECTION 8. A NEW SECTION OF KRS CHAPTER 416 IS CREATED TO READ AS FOLLOWS:

Any answer or other pleading filed by the owner in response to the summons shall be filed on or before the twenty (20) days after date of service and shall be confined solely to the question of the right of the petitioner to condemn the property sought to be condemned, but without prejudice to the owner's right to except from the amount of the compensation awarded in the manner provided in this Act.

SECTION 9. A NEW SECTION OF KRS CHAPTER 416 IS CREATED TO READ AS FOLLOWS:

(1) After the owner has been summoned twenty (20) days, the court shall examine the report of the commissioners to determine whether it conforms to the provisions of Section 6 of this Act. If the report of the commissioners is not in the proper form the court shall require the commissioners to make such corrections as are necessary.

(2) If no answer or other pleading is filed by the owner or owners putting in issue the right of the petitioner to condemn the property or the use and occupation thereof sought to be condemned, the court shall enter an interlocutory judgment which shall contain, in substance:

(a) A finding that the petitioner has the right, under the provisions of this Act and other applicable law to condemn the property or the use and occupation thereof;

(b) A finding that the report of the commissioners conforms to the provisions of Section 6 of this Act;

(c) An authorization to take possession of the property for the purposes and under the conditions and limitations, if any, set forth in the petition upon payment to the owner or to the clerk of the court the amount of the compensation awarded by the commissioners;

(d) Proper provision for the conveyance of the title to the land and material, to the extent condemned, as adjudged therein in the event no exception is taken as provided in subsection (1) of Section 10 of this Act.

(3) Any exception from such interlocutory judgment by either party or both parties shall be confined solely to exceptions to the amount of compensation awarded by the commissioners.

(4) If the owner has filed answer or pleading putting in issue the right of the petitioner to condemn the property or use and occupation thereof sought to be condemned, the court shall, without intervention of jury, proceed forthwith to hear and determine whether or not the petitioner has such right. If the court determines that petitioner has such rights, an interlocutory judgment, as provided for in subsection (2) of this Section, shall be entered. If the court determines that petitioner does not have such right, it shall enter a final judgment which shall contain, in substance:

(a) A finding that the report of the commissioners conforms to the provisions of Section 6 of this Act;

(b) A finding that the petitioner is not authorized to condemn the property or the use and occupation thereof for the purposes and under the conditions and limitations set forth in the petition, stating the particular ground or grounds on which the petitioner is not so authorized;

(c) An order dismissing the petition and directing the petitioner to pay all costs.

SECTION 10. A NEW SECTION OF KRS CHAPTER 416 IS CREATED TO READ AS FOLLOWS:

(1) Within thirty (30) days from the date of entry of an interlocutory judgment authorizing the petitioner to take possession of the property, exceptions may be filed by either party or both parties by filing with the clerk of the circuit court and serving upon the other party or parties a statement of exceptions, which statement shall contain any exceptions the party has to the award made by the commissioners. The statement of exceptions shall be tried, but shall be limited to the questions which are raised in the original statements of the exceptions, or as amended, but the owner shall not be permitted to raise any question, nor shall the court reconsider any question so raised, concerning the right of the petitioner to condemn the property. All questions of fact pertaining to the amount of compensation to the owner, or owners, shall be determined by a jury, which jury on the motion of either party shall be sent by the court, in the charge of the sheriff, to view the land and material. After a jury trial, and if possession previously has not been taken by the condemnor of the land and material condemned, it may do so upon the payment to the owner or to the clerk of the circuit court the amount of the compensation adjudged by the circuit court to be due the owner.

(2) Appeals may be taken to the Court of Appeals from the final judgment of the circuit court as in other cases except that an appeal by the owner shall not operate as a supersedeas.

(3) The payment by the condemnor of the amount of compensation awarded and the taking possession of the lands and material condemned shall not prejudice its right to except from the award of the commissioners or the judgment of any court, nor shall the acceptance by the owner of the amount of the compensation awarded prejudice his right to except from the award of the commissioners or the judgment of any court.

(4) All costs in the circuit court shall be adjudged against the condemnor.

(5) If the condemnor takes possession of the property condemned and the amount of compensation is thereafter increased over that awarded by the commissioners, the condemnor shall pay interest to the owner at the rate of six percent (6%) per annum upon the amount of such increase from the date the condemnor took possession of the property. If the condemnor takes possession of the property condemned and the amount of compensation is thereafter decreased below that awarded by the commissioners, the condemnor shall be entitled to a personal judgment against the owner for the amount of the decrease plus interest at the rate of six percent (6%) per annum from the date the owner accepted the amount of compensation the condemnor paid into court or to the owner. If the owner at all times refuses to accept the payment tendered by the condemnor, no interest shall be allowed in the judgment against the owner for the amount of the decrease.

(6) Upon the final determination of exceptions, or upon expiration of thirty (30) days from entry of the interlocutory judgment if no exceptions are filed, the circuit court shall make such orders as may be proper for the conveyance of the title to the extent condemned, to the property, and shall enter such final judgment as may be appropriate.

SECTION 11. A NEW SECTION OF KRS CHAPTER 416 IS CREATED TO READ AS FOLLOWS:

All money paid into court or paid or transferred to the clerk of a court under the provisions of this Act shall be received by the clerk of the court and held subject to the order of the court, for which the clerk and his sureties on his official bond shall be responsible to the persons entitled thereto.

SECTION 12. A NEW SECTION OF KRS CHAPTER 416 IS CREATED TO READ AS FOLLOWS:

Where there are conflicting claimants to the land sought to be condemned and all such parties are before the court, each claimant, for the purposes of the condemnation proceeding only, shall be deemed to be an owner, and the procedure for the condemnation of the land shall be as provided in this Act except that, before the condemnor shall be entitled to take possession of the land, it shall be required to pay the compensation awarded therein to the circuit court clerk to be held for the benefit of, and paid over to such persons as may thereafter be determined to be entitled to receive it. In such cases, the claimants may have their rights determined in a separate action, but the filing of such action or its pendency shall in no wise stay or delay said condemnation proceedings.

SECTION 13. A NEW SECTION OF KRS CHAPTER 416 IS CREATED TO READ AS FOLLOWS:

All proceedings under this Act shall be governed by the provisions of the Rules of Civil Procedure except where the provisions of this Act specifically or by necessary implication provide otherwise.

SECTION 14. A NEW SECTION OF KRS CHAPTER 416 IS CREATED TO READ AS FOLLOWS:

(1) In all actions for the condemnation of lands under the provisions of this Act, except temporary easements, there shall be awarded to the landowners as compensation such a sum as will fairly represent the difference between the fair market value of the entire tract, all or a portion of which is sought to be condemned, immediately before the taking and the fair market value of the remainder thereof immediately after the taking, including in the remainder all rights which the landowner may retain in the lands sought to be condemned where less than the fee simple interest therein is taken, together with the fair rental value of any temporary easements sought to be condemned.

(2) Any change in the fair market value prior to the date of condemnation which the condemnor or condemnee establishes was substantially due to the general knowledge of the imminence of condemnation shall be disregarded in determining fair market value. The taking date for valuation purposes shall be either the date the condemnor takes the land, or the date of the trial of the issue of just compensation, whichever occurs first.

SECTION 15. A NEW SECTION OF KRS CHAPTER 416 IS CREATED TO READ AS FOLLOWS:

(1) Development shall be started on any property which has been acquired through condemnation within a period of five years from the date of the deed to the condemnor or the date on which the condemnor took possession, whichever is earlier, for the purpose for which it was condemned. The failure of the condemnor to so begin development shall entitle the condemnee landowner to repurchase the property at the price the condemnor paid to the landowner for the property. The person from whom the land is taken by condemnation may reacquire the land as aforementioned by application to a court of competent jurisdiction, if such procedure is necessary and may recover his costs and reasonable attorneys' fees necessary to reacquire the land.

(2) If development of the property is not started within a period of five years pursuant to the provisions of this Section, the condemnor may apply to a court of competent jurisdiction to extend the period of time before which the condemnee landowner shall be entitled to reacquire the property condemned. The court shall determine as a matter of law whether to grant such extension and the period of time for which the extension shall be granted.

Section 16. KRS 36.070 is amended to read as follows:

The facilities division shall be headed by a director experienced in the administration of real property. The division may make contracts, acquire real and personal property by gift, purchase, or by condemnation in the manner prescribed in *the Eminent Domain Act of Kentucky* [KRS 416.120], and may do all things necessary to perform its duties under KRS 36.070 to 36.090.

Section 17. KRS 36.080 is amended to read as follows:

(1) The facilities division shall provide adequate armories, buildings and grounds for the Kentucky army and air national guard for its purposes of drill, instruction and administration and for the safekeeping of public property of the state and the United States issued to or for the use of the Kentucky national guard.

(2) The facilities division may, either alone or in cooperation with the United States government, counties, cities, private corporations, voluntary unincorporated associations or individuals, construct, or acquire by purchase, contract, lease, gift, donations, or by condemnation in the manner prescribed in *the Eminent Domain Act of Kentucky* [KRS 416.120], armories, buildings or grounds suitable for drill, instruction and administration and the safekeeping of public property, and make additions and improvements in or to such armories and facilities. The division may, either alone or with the like cooperation of others, provide heat, light, water, telephone service and other costs of operation and maintenance, including insurance.

(3) The amounts to be spent for the construction, acquisition, maintenance and rental of armories shall be wholly within the discretion of the adjutant general.

Section 18. KRS 36.090 is amended to read as follows:

(1) The fiscal court of any county and the governing body of any city wherein a unit of the Kentucky national guard is established may, either severally or acting jointly with each other or with the facilities division, construct, or acquire by purchase, contract, lease, gift, donation, or by condemnation in the manner prescribed in *the Eminent Domain Act of Kentucky* [KRS 416.120], grounds, buildings, and facilities suitable for national guard and community purposes. The buildings or the plans and specifications therefor must first be approved by the facilities division as suitable for use as armories by the national guard units in the county or city, and the fiscal court or governing body of the city must have first contracted with the facilities division for the use of the building as an armory by the national guard units upon terms consistent with KRS 36.070 to KRS 36.090.

(2) For the purpose of providing necessary funds for the acquisition or construction of the buildings and grounds, and the cost of maintenance and operation thereof, the fiscal court or governing body of the city may annually levy and collect a tax not exceeding ten cents (10¢) on each one hundred dollars ($100) worth of taxable property in the county or city, as determined by the last regular assessment for county or city taxes. If funds received from donations or from earnings from the building, together with rentals received from the facilities division, are adequate to provide for all expenses of operation and maintenance, the tax levies may be withheld and appropriated to the general expense fund of the county or city. If any county has, under preexisting laws, acquired or constructed buildings and grounds suitable for public assemblages, conventions, exhibitions and entertainments, and also for armory purposes, and shall contract with the facilities division for the use thereof by national guard units upon terms consistent with KRS 36.070 to KRS 36.090, the fiscal court of the county may levy and collect necessary taxes, not exceeding ten cents (10¢) on each one hundred dollars ($100) worth of taxable property, for the payment of expenses of operation and maintenance.

Section 19. KRS 56.463 is amended to read as follows:

The department shall have the power and duty:

(1) To determine the comparative needs and demands of the various state agencies for acquiring real estate and for building projects.

(2) To purchase or otherwise acquire all real property determined to be needed for state use and upon the approval of the commissioner of the executive department for finance and administration as to the determination of need and as to the action of purchase or other acquisition, except as provided in KRS chapters 175, 176, 177, and 180. All such acquisitions of real property or interests therein shall be made in accordance with KRS 45.360.

(3) To sell or otherwise dispose of all property, including any interest in real property, of the state that is not needed or has become unsuitable for public use or would be more suitable consistent with the public interest for some other use as determined by the commissioner of the executive department for finance and

administration. All such sales or other disposition shall be made in accordance with KRS 45.360.

(4) (a) To control the use of any real property owned or otherwise held by the commonwealth, or any state agency, and to determine for what periods of time and for what purposes any state agency may use the same, including the agency for whose use it was initially acquired or improved, and to determine what appropriate uses shall be made of such real property during periods that the department finds the same is not required for the purposes of any particular state agency.

(b) To determine the housing and furnishings needs of the various state agencies located in Frankfort and to establish and put into effect a permanent program for housing them. The department is also authorized and directed to allocate office space and furnishings in existing public buildings located in Frankfort, exclusive of the third and fourth floors of the new state capitol, according to the needs of the various agencies and when necessary to provide additional office space and furnishings in Frankfort under any building program the department deems most advisable and economical for the state. The permanent housing program shall include provisions for housing the general assembly and its related agencies, including the legislative research commission, and its subcommittees, the executive offices, the Court of Appeals and the clerk of the Court of Appeals, the department of law and the law library, in the new state capitol, provided the general assembly and the legislative research commission shall have complete control and exclusive use of the third and fourth floors of the new state capitol. If there be any additional space in the capitol, it shall be assigned to agencies whose activities are most closely related to the agencies directed to be located permanently in the capitol.

(5) To acquire, by condemnation in *the* [any] manner provided in *the Eminent Domain Act of Kentucky* [KRS chapter 416, or KRS 177.081 to 177.089], any real estate necessary for use by the state or by any state agency, when the department is unable to agree with the owner thereof on a price for such real estate.

(6) To lease any real property, or any interest in such real property, owned by the state or any agency thereof, in accordance with KRS 45.360.

(7) To provide for and adopt such plans and specifications as may be necessary, to advertise for and receive bids for any expenditures proposed to be made, to award contracts for the purpose authorized, to supervise construction and make such changes and revisions in plans and specifications or in construction as may become necessary, and generally to do any and all other things as may become necessary or expedient in order to effectively fulfill and carry out the purposes of this chapter, including the right to employ such clerks, engineers, statisticians, architects or other persons required to be employed in order to fulfill the functions of the commonwealth relating to state property and buildings provided in KRS 56.450 to 56.550.

(8) To adopt such rules and regulations as may be necessary to govern the acquisition, control, and disposition of the real property to which this section is applicable.

Section 20. KRS 58.140 is amended to read as follows:

In the event a governmental agency is unable to acquire, by purchase or agreement, any real property deemed necessary for the purposes of a public project, such agency may acquire the same by condemnation. The procedure for condemnation shall be as provided in *the Eminent Domain Act of Kentucky* [KRS 416.010 to 416.080, or as provided in KRS 416.120, whichever procedure is selected by the agency].

Section 21. KRS 58.220 is amended to read as follows:

The authority may:

(1) Construct, reconstruct, maintain, repair, operate, and regulate projects at such locations within the city of Frankfort, Kentucky, as may be determined by the authority;

(2) Acquire any interests in real property pursuant to the condemnation procedures of *the Eminent Domain Act of Kentucky* [KRS chapter 416 or 177.081 to 177.089];

(3) Notwithstanding KRS chapter 56, the authority may issue revenue bonds payable solely from the charges, revenues, rentals, and other funds pledged for their payment, for the purpose of paying all or any part of the cost of any project or for the acquisition of property;

(4) Sell any building, structure, facility or any interests in land to the commonwealth of Kentucky, the federal, city, or county government, or any person or corporation;

(5) Lease any interest in real property, any building, facility, or structure to the commonwealth of Kentucky, the federal, city, or county government or to any person or corporation;

(6) Fix and revise from time to time the charges and rent payments which will be paid by the different lessees for the use of the land, buildings and parking facilities;

(7) Combine for financing purposes any two (2) or more projects;

(8) Establish and enforce rules, specifications, and regulations for the construction and use of any project, except during any period when such powers are assigned to a lessee pursuant to a lease agreement;

(9) Notwithstanding KRS chapter 56, to acquire and hold in the name of the authority real and personal property in the exercise of its powers and the performance of its functions and duties under KRS 58.210 to 58.315, and to dispose of these interests in property;

(10) Make and enter into such contracts and agreements with the commonwealth of Kentucky or any federal, city, or county government or other person or corporation as may be necessary or incidental to the effectiveness of a well-planned complex;

(11) Employ consulting engineers, attorneys, accountants, construction and financial experts, superintendents, managers, and such other employes and agents as may be necessary in the judgment of the authority, and to fix their compensation;

(12) Receive and accept from the commonwealth, the department, any federal agency, and the city or county, grants for or in aid of the construction of any project, and receive and accept aid or contributions from any source of either money, property, labor or other things of value, to be held, used and applied for the purposes for which such grants and contributions may be made; and

(13) Do all acts necessary and proper to carry out the powers expressly granted in KRS 58.210 to 58.315.

Section 22. KRS 65.530 is amended to read as follows:

(1) The purposes of the authority shall be to establish, maintain, operate and expand necessary and proper riverport and river navigation facilities, and to acquire and develop property, or rights therein within the economic environs of the riverport or proposed riverport to attract directly or indirectly river-oriented industry. It shall have the duty and such powers as may be necessary or desirable to promote and develop navigation, river transportation, riverports, and riverport facilities, and to attract industrial or commercial operations to the property held as industrial parks.

(2) The authority shall establish and fix reasonable rates, charges and fees for the use of the riverport facilities which shall be published in a newspaper of general circulation in the county in which the riverport is located. In fixing such rates, charges or fees the authority may take into consideration, among other factors, the total capital investment of the authority, the revenue needed properly to maintain such facilities, the revenue needed properly to expand the riverport and its facilities, the portion of the facilities utilized by the licensee or contracting party and its customers and the volume and type of business conducted. Any party aggrieved by the rates, charges or fees may appeal from the action of the authority to the circuit court of the county within which the authority operates, within ninety (90) days from the date that the authority finally publishes such rates, charges or fees and gives notice of same to the contracting party or licensee. The circuit court may hear evidence and determine whether or not the rates, charges or fees are, or are not, reasonable in amount. Appeal from the judgment of the circuit court may be prosecuted as any other civil appeal.

(3) The authority shall also have power, from time to time, to fix rates, charges or fees by contract, or by publishing general rates, charges or fees for commercial vendors, concessionaires or other persons for the use or occupancy of riverport facilities under such terms and conditions as it may deem to be in the best interest of maintaining, operating or expanding necessary riverport facilities, and the public use thereof.

(4) The authority may acquire by contract, lease, purchase, option, gift, condemnation or otherwise any real or personal property, or rights therein, necessary or suitable for establishing, developing, operating or expanding riverports, riverport facilities, water navigation facilities, including spoilage areas for the disposal of materials dredged from river bottoms in an effort to improve the navigability of rivers, and industrial parks or sites within the economic environs of the riverport or proposed riverport. The authority may erect, equip, operate and maintain on such property buildings and equipment necessary and proper for riverport and water navigation facilities. The authority may dispose of any real or personal property, or rights therein, which in the opinion of the authority is not needed for use as riverport or water navigation facilities, or use as industrial parks or sites. The authority may lease, sell, convey, or assign its interest in land owned, optioned, or otherwise held by it to any person for the purpose of constructing and/or operating any industrial or commercial facility or for the purpose of acting as the authority's agent or licensee in effectively carrying out any of its powers and duties.

(5) With the consent of the legislative body of the governmental unit in which the property to be condemned is located, the authority may by resolution, reciting that the property cannot be acquired by purchase or agreement and is needed for riverport, water navigation, or industrial purposes in accordance with the powers set forth in subsection (4) of this section, direct the condemnation of any property. The procedure for condemnation shall conform to the procedure set out in *the Eminent Domain Act of Kentucky* [KRS 58.140]

(6) The authority may apply for, receive authorization for, establish and operate a foreign trade zone, as permitted by 19 U. S. C. section 81, provided approval is obtained from the Kentucky port and river development commission.

Section 23. KRS 67.085 is amended to read as follows:

Whenever the fiscal court of any county deems it to be in the best interest of the county to acquire the fee simple title to any real property within such county for any administrative or governmental purpose in addition to those now provided for by law and the fiscal court is unable to contract with the owner of the land, required for such purpose, for its purchase or to acquire the same by gift, the land may be condemned under the procedure set forth in *the Eminent Domain Act of Kentucky* [KRS 416.110], and said fiscal court may appropriate funds to pay for said real property.

Section 24. KRS 74.090 is amended to read as follows:

If it becomes necessary to acquire a right of way or land, and it cannot be acquired by purchase, the commission may condemn the needed property in the manner provided in *the Eminent Domain Act of Kentucky* [KRS 416.010 to 416.080]. The owners of land sought to be condemned shall be made parties to the proceeding. Any damage awarded shall be paid by the commission out of the first funds available.

Section 25. KRS 76.080 is amended to read as follows:

The district created under the provisions of KRS 76.010 to 76.210 is empowered:

(1) To have jurisdiction, control, possession, and supervision of the existing sewer and drainage system of the city of the first or second class; to maintain, operate, reconstruct, and improve the same as a comprehensive sewer and drainage system; to make additions, betterments, and extensions thereto within the district area; and to have all the rights, privileges, and jurisdiction necessary or proper for carrying such powers into execution. No enumeration of powers in KRS 76.010 to 76.210 shall operate to restrict the meaning of this general grant of power or to exclude other powers comprehended within this general grant.

(2) To prepare or cause to be prepared and to be thereafter revised and adopted, plans, designs, and estimates of costs, of a system of trunk, intercepting, connecting, lateral, and outlet sewers, storm water drains, pumping and ventilating stations, disposal and treatment plants and works, and all other appliances and structures which in the judgment of the board will provide an effective and advantageous means for relieving the district area from inadequate sanitary and storm water drainage and from inadequate sanitary disposal and treatment of the sewage thereof, or such sections or parts of such system of the district area as the board may from time to time deem proper or convenient to construct, consistent with the plans and purposes of KRS 76.010 to 76.210, and may take all steps the board deems proper and necessary to effect the purposes of KRS 76.010 to 76.210.

(3) To construct any additions, betterments and extensions to the facilities of the district, within or without the district area, and to construct any construction subdistrict facilities or additions, betterments and extensions thereto, within or without the district area, by contract or under, through, or by means of its own officers, agents and employes. No construction or extensions shall be started within the city of the first or second class until, firstly, the city's director of works, and secondly, its board of aldermen have approved the plans. No construction or extensions shall be started in any city of the second, third, or fourth class until the governing authorities of such city or cities have approved the plans. No construction or extensions shall be started in any other part of the county until the plans have been approved, firstly, by the county engineer and, secondly, by the fiscal court.

(4) To establish, construct, operate, and maintain, as a part of the sewer and drainage system of the district, sewage treatment and disposal plants and systems and all the appurtenances and appliances thereunto belonging. The sewage treatment and disposal plants may be located in the city, or beyond the limits of the city in the county in which the city is located, as the board deems expedient.

(5) To acquire and hold the personal property the board deems necessary and proper for carrying out the corporate purposes of the district and to dispose of personal property when the district has no further need therefor.

(6) To acquire by purchase, gift, lease, or by condemnation, real property or any interest, right, easement, or privilege therein, as the board determines necessary, proper and convenient for the corporate purposes of the district, and to use the same so long as its corporate existence continues, and same is necessary or useful for the corporate purposes of the district. Condemnation proceedings may be instituted in the name of the district pursuant to a resolution of the board declaring the necessity for the taking, and the method of condemnation shall be the same as provided in *the Eminent Domain Act of Kentucky* [KRS 416.120]

When the board by resolution declares that any real property which it has acquired, or any interest therein, is no longer necessary or useful for the corporate purposes of the district, the real property and interest therein may be disposed of.

(7) To make bylaws and agreements for the management and regulation of its affairs and for the regulation of the use of property under its control and for the establishment and collection of sewer rates, rentals and charges, which sewer rates, rentals and charges, applicable within the limits of a city of the first or second class, shall be subject to the approval, supervision and control of the legislative body of the city as hereinafter provided.

(8) To make contracts and execute all instruments necessary or convenient in the premises.

(9) To borrow money and to issue negotiable bonds and to provide for the rights of the holders thereof.

(10) To fix and collect sewer rates, rentals, and other charges, for services rendered by the facilities of the district, which sewer rates, rentals, and other charges, applicable within the limits of a city of the first or

second class, shall be subject to the approval, supervision and control of the legislative body of such city as hereinafter provided.

(11) To enter on any lands, waters and premises for the purpose of making surveys, and soundings and examinations.

(12) To approve or revise the plans and designs of all trunk, intercepting, connecting, lateral and outlet sewers, storm water drains, pumping and ventilating stations, disposal and treatment plants and works proposed to be constructed, altered or reconstructed by any other person or corporation, private or public, in the whole county, in order to insure that such proposed construction, alteration or reconstruction shall conform to and be a part of a comprehensive sewer and drainage system for the said county. No sewers, drains, pumping and ventilating stations, or disposal and treatment plants or works shall be constructed, altered or reconstructed without approval by the board of the district. Any such work shall be subject to inspection and supervision of the district.

Section 26. KRS 76.110 is amended to read as follows:

(1) The district shall have the power to acquire by purchase, gift or eminent domain proceedings, the fee or such right, title, interest or easement, in such lands as may be deemed by the district necessary for any of the purposes mentioned in KRS 76.010 to 76.281, whether within or without the district area or within or without a construction subdistrict and any personal property necessary for the purpose of the district. Such lands or interest therein, or personal property may be so acquired whether or not the same are owned or held for public use by corporations, associations, or other persons having the power of eminent domain, or otherwise held or used for public purposes. But nothing in this chapter shall be construed to confer upon or recognize in the district any power to acquire by agreement, purchase or gift, or by eminent domain proceedings, any fee, right, title, interest or easement in property under the jurisdiction of the department of highways or included within the boundaries of any sanitation district organized under KRS chapter 220, except necessary rights of way for trunk sewers through such sanitation districts. Forthwith upon the acquisition of any such fee, right, title, interest or easement, or personal property, the same shall become dedicated to the uses and purposes of the district.

(2) The method of condemnation of such property shall be *pursuant to the Eminent Domain Act of Kentucky* [(a) as provided in KRS 416.120, (b) as provided in KRS 76.080 (6), or (c) as provided in KRS 416.230 to 416.310 inclusive or as hereinafter provided].

(3) When a district has filed a proceeding to condemn land or any interest therein or personal property, pursuant to the provisions of *the Eminent Domain Act of Kentucky* [KRS 416.230 to 416.310], and the board of such district shall determine that the necessity for procuring possession of the property is urgent, it may pass a resolution, at the time that said condemnation is authorized or at any time thereafter for a declaration of taking, declaring that said lands are to be taken for the use of a metropolitan sewer district. Said declaration of taking shall contain, or have annexed thereto, the following:

(a) A statement of the authority under which and, the public use for which, said lands are taken;
(b) A description of the lands taken sufficient for identification thereof;
(c) A statement of the estate or interest in said lands taken for said public use;
(d) A plat showing the lands taken.

(4) At any time after the report of the commissioners has been made, the district may file said declaration of taking and make a deposit with the clerk of the court of the sum of money stated in the award of the commissioners appointed. Title to said lands in fee simple or such lesser estate as is specified in said declaration or to said personal property shall then vest in such metropolitan sewer district, and the right to just compensation for said land or interest therein or personal property shall vest in the persons entitled thereto. Said compensation shall be ascertained and awarded in said proceeding as otherwise provided in *the Eminent Domain Act of Kentucky* [KRS 416.230 to 416.310 inclusive].

Section 27. KRS 80.150 is amended to read as follows:

If it becomes necessary to condemn property for the purpose of constructing any low-cost housing project, or securing rights of way leading thereto, the authority may, by resolution reciting the need, order the condemnation of any land or improvement or interest in land, that it deems necessary. Proceedings for the condemnation shall be in the circuit court of the county in which the property lies, and shall be conducted in the name of the authority. The city attorney shall conduct the proceedings, for the authority. The judgment of the court shall vest title in fee simple to the property condemned in the authority. In all other respects the form and manner of the proceedings shall be the same as that provided in *the Eminent Domain Act of Kentucky* [KRS 416.120]. No payment or award in any condemnation proceedings, or for the cost or expense of the proceedings, shall be made except from funds provided under the authority of this chapter.

Section 28. KRS 80.540 is amended to read as follows:

An authority shall have the right to acquire by condemnation any real property which it may deem necessary for its purposes under KRS 80.310 to 80.610 after the adoption by it of a resolution declaring that the acquisition of the real property described therein is necessary for such purposes. Proceedings for such condemnation shall be in *accordance with the Eminent Domain Act of Kentucky* [the circuit court of the county in which the property lies,] and shall be conducted in the name of the authority by the attorney designated by the authority, and the judgment of the court shall vest title in fee simple to the property condemned in the authority. [In all other respects, the form and manner of the proceedings shall be the same as that provided for the condemnation of land for road purposes by fiscal courts.]

Section 29. KRS 82.180 is amended to read as follows:
Whenever any property authorized to be acquired under KRS 82.105 to 82.120 cannot be acquired by purchase upon terms which a city, or an agency thereof designated to act for it, deems to be reasonable, or whenever the owner is legally incapacitated, absent, unknown, or unable to convey valid title, the city, or the agency acting therefor, is hereby authorized and empowered to acquire such property by condemnation or the exercise of the power of eminent domain in the manner prescribed by *the Eminent Domain Act of Kentucky* [KRS 99.420. The term "agency" used in KRS 99.420 shall be deemed to mean and include the city itself, or an agency of the city designated to act for it].

Section 30. KRS 85.120 is amended to read as follows:
The common council, subject to the limitations imposed by the constitution and statutes, may:
(1) Contract debts, borrow money, and control the finances and property of the city;
(2) By ordinance, appropriate money and provide for the payment of the debts and expenses of the city;
(3) By ordinance, provide for inclosing, improving and regulating all public grounds belonging to the city, in or out of the city limits;
(4) Acquire the fee simple title to real estate by eminent domain proceedings in all cases where it is necessary to acquire real estate for public purposes, or to protect the city from public nuisance, the procedure to be the same as provided in *the Eminent Domain Act of Kentucky* [KRS 416.010 to 416.080];
(5) By ordinance, impose, for violation of city ordinances, any fine, forfeiture, imprisonment or penalty that may be imposed without an indictment by a grand jury, but not less than the fine, forfeiture, imprisonment or penalty imposed by statute for the same offense, and may provide, by ordinance, for the recovery and appropriation of such fines, forfeitures and penalties;
(6) By ordinance, make police regulations to secure and protect the general health, comfort, convenience, morals and safety of the public;
(7) Enact ordinances to carry out the full intent and meaning of the statutes relating to cities of the third class, and to accomplish the object of the incorporation of those cities.

Section 31. KRS 86.110 is amended to read as follows:
The city council may, within the city:
(1) Borrow money for making public improvements, upon the credit of the city, and pledge the revenue for the payment thereof;
(2) Appropriate money to provide for the payment of the debts and expenses of the city;
(3) Purchase, upon a vote of two-thirds (2/3) of the members of the council, any real estate that it considers necessary for city purposes;
(4) Provide for the purchase of all personal property necessary for city purposes;
(5) Sell and dispose of any city property, upon a vote of two-thirds (2/3) of the members of the council;
(6) Erect a workhouse, poorhouse, station house and house of correction, and provide for their maintenance and regulation, and for the maintenance and government of the inmates;
(7) Provide, maintain and regulate a public burial ground;
(8) Declare by ordinance that property is needed for municipal purposes and for the purposes mentioned in subsections (6) and (7) of this section, upon the passage of which ordinance the proper city authorities may, if the compensation for the property cannot be agreed upon, proceed to condemn the property in the manner provided by *the Eminent Domain Act of Kentucky* [KRS 416.010 to 416.080].
(9) Erect market houses, and provide for their government and regulation;
(10) Fix by ordinance the penalty for the violation of any provision of the laws relating to cities of the fourth class, or of any city ordinance, and enforce the same by warrant or summons;
(11) Enact ordinances, not in conflict with the constitution or statutes, to carry into effect all the powers of the city, and do all things properly belonging to the police of incorporated cities.

Section 32. KRS 87.090 is amended to read as follows:
Whenever property is needed for municipal purposes, and an ordinance is enacted so declaring, the proper authorities of the city may, if compensation therefor cannot be agreed upon, condemn the property in

the manner provided in *the Eminent Domain Act of Kentucky* [KRS 416.010 to 416.080].

Section 33. KRS 88.100 is amended to read as follows:

Whenever property is needed for municipal purposes, including the purpose of establishing a cemetery to be owned and managed by the city, or to extend or enlarge a cemetery so owned and managed, and an ordinance is enacted so declaring, the proper authorities of the city may, if compensation therefor cannot be agreed upon, proceed to condemn the property in the manner provided in *the Eminent Domain Act of Kentucky* [KRS 416.010 to 416.080]. Not more than five (5) acres shall be condemned for cemetery purposes in any one (1) proceeding.

Section 34. KRS 93.100 is amended to read as follows:

(1) Except as provided in KRS 93.320, when property is needed for appropriate municipal purposes, within the boundaries of the city or the county in which the city is located, the director of works may, with the consent of the mayor, if the amount is under two thousand dollars ($2,000), or with the consent of the mayor and the city legislative body, if the amount is over two thousand dollars ($2,000), order the condemnation of the property.

(2) The proceeding for the condemnation shall be prosecuted in the name of the city by the city attorney in the manner provided in *the Eminent Domain Act of Kentucky* [KRS 416.120].

(3) Cities of the first class may acquire suitable lands for dumping garbage, and shall keep an open road to and from such lands in repair.

Section 35. KRS 93.320 is amended to read as follows:

(1) When, in the opinion of the director of works, it is reasonably necessary to close, in whole or part, any public way for use for the elimination of grade crossings of public streets with the tracks of steam or electric railroads, as provided in KRS 93.290, he shall certify the necessity and his reasons for the closing to the city legislative body. The city legislative body may then, by ordinance, direct the city attorney to institute action in the circuit court to close the public way or portion designated. All the owners of ground in the squares and lots divided by the public way or portion sought to be closed, and abutting thereon, shall be made defendants in the action.

(2) The action shall proceed as in the case of condemnation of property for other city purposes, as provided in *the Eminent Domain Act of Kentucky* [KRS 416.120], and upon return of the verdict of the jury the court shall enter judgment, discontinuing and closing the public way or portion thereof sought to be closed, and vesting in the city the fee simple title.

(3) The judgment shall take effect upon the payment into court, by the city, of the amount of money named in the verdict, and the taxed costs of the proceedings. The city shall have sixty (60) days in which to make payment, and if it is not made within that time, the closing shall be deemed abandoned, the verdict and judgment set aside, and the proceedings dismissed at the cost of the city without prejudice to any subsequent proceedings.

(4) Whenever it is necessary for the purposes of a grade separation to condemn any property other than a public way, the director of works may order the condemnation of the property, the proceedings to be as provided in *the Eminent Domain Act of Kentucky* [KRS 416.120].

Section 36. KRS 93.352 is amended to read as follows:

Any city of the first class shall have and may exercise all powers necessary or convenient to carry out the purpose of KRS 93.352 to 93.356, which is hereby declared to be the acquisition, creation, and operation in any manner hereinafter provided, under public regulation, of public off-street parking facilities in any such city as a necessary incident to insuring in the public interest the free circulation of traffic in, through and from such city. Such powers shall include, but shall not be limited to the powers enumerated in the following paragraphs (a) to (k) inclusive:

(a) The power to purchase in the manner prescribed in KRS 83.300, and acquire by gift, bequest, devise, or grant, real property, or any interest therein, in any area of any such city in which the director of traffic engineering in such city, subject to the approval of the legislative body of such city, shall have made a determination that public parking facilities are therein required, and to hold, use, and dispose of same in the manner prescribed by law;

(b) The power to condemn, in the manner prescribed in *the Eminent Domain Act of Kentucky* [KRS 93.100], real property, or any interest therein in any area of any such city in which the director of traffic engineering in such city, subject to the approval of the legislative body of such city, shall have made a determination that public parking facilities are therein required, and hold, use, or dispose of same in the manner provided by law; in such condemnation proceedings the city shall obtain a fee simple title and may thereafter dispose of same without working a reverter;

(c) The power to clear and improve, in the manner provided by law, any property acquired under KRS 93.352 to 93.356, and to construct or cause to be constructed thereon such structures and equipment suitable for parking facilities, as the director of traffic engineering, subject to the approval of the legislative body of such city, shall have determined to be necessary;

(d) The power to maintain and operate for parking by the public, of vehicles, any property, or interest in property, constructed or acquired under KRS 93.352 to 93.356;

(e) The power to contract with any corporation, firm, individual, or association, private or public, subject to the provisions of KRS 93.352 to 93.356, for the operation as a public parking facility of any property, or interest in property, constructed or acquired under KRS 93.352 to 93.356, for such period as the director of traffic engineering, subject to the approval of the legislative body of such city, shall determine;

(f) The power to lease to any corporation, firm, individual, or association, private or public, subject to the provisions of KRS 93.352 to 93.356, for the operation thereof as a public parking facility, any property, or interest in property, constructed or acquired under KRS 93.352 to 93.356, for such period as the director of traffic engineering, subject to the approval of the legislative body of such city shall determine;

(g) The power to sell, exchange, transfer, or assign, any property, real or personal, or any interest therein, constructed or acquired under KRS 93.352 to 93.356, whether or not improved, and which the director of traffic engineering, subject to the approval of the legislative body of such city, shall have determined to be no longer necessary or required for the proper achievement of the purposes of KRS 93.352 to 93.356; Provided however, the city may, through the director of traffic engineering, subject to the approval of the legislative body of the city, lease such property or any part thereof for use for commercial purposes that may be in aid of the operation of off-street parking facilities under KRS 93.352 to 93.356;

(h) The power to lease for commercial purposes any part of said property which the city, through the director of traffic engineering, with the approval of the legislative body of the city, shall have determined to be no longer required, or not at that time required, for the proper achievement of the purposes of KRS 93.352 to 93.356;

(i) The power to establish and revise from time to time, schedules of rates to be charged for the use of such public parking facilities operated under KRS 93.352 to 93.356 and to establish, extend, revise, and rescind regulations in regard to the use, operation, and occupancy of any property or interest therein, constructed or acquired under KRS 93.352 to 93.356, to the end that the maintenance, operation, use, and charge for the use of all such property shall be subject to public regulation; the director of traffic engineering, subject to the provisions of KRS 93.352 to 93.356 and subject to the approval of the legislative body of such city, shall establish, extend, revise, and rescind, such schedules and regulations;

(j) The power to engage in or contract for the construction, reconstruction, alteration, repair and maintenance of any public parking facilities operated or to be operated under KRS 93.352 to 93.356, as the director of traffic engineering, subject to the approval of the legislative body of such city, shall determine;

(k) The power to adopt suitable ordinances defining particular areas within the city to be served by and for which off-street parking facilities shall be established under the provisions of KRS 93.352 to 93.356, regulating or prohibiting the parking of motor vehicles upon the streets of any such city within any such area, and providing that the provisions of any such ordinance shall be for the benefit of the holders of revenue bonds issued under the authority of KRS 93.352 to 93.356 and shall be irrepealable so long as any of such bonds shall remain outstanding.

Section 37. KRS 93.930 is amended to read as follows:

(1) Said city may acquire all rights of way necessary to carry out the provisions of KRS 93.880 to 93.950, by gift, purchase or condemnation. All proceedings for the acquisition of rights of way by condemnation shall be had in the manner *provided in the Eminent Domain Act of Kentucky* [similar to that provided by law for condemnation of land for park purposes in any city of the first class]; Provided, however, said city shall have one hundred and twenty (120) days in which to make compensation and payment of the amount of money named in the verdict and judgment, including the costs taxed in the proceedings.

(2) The acquisition of rights of way by condemnation and the improvement of the several arterial highways, or any of them, or parts or sections of them, shall be ordered by ordinance of the legislative body adopted and passed in the same manner as now provided by the charter of cities of the first class for the original construction of ordinary streets. The improvement shall be let and done by contract in the manner now provided for the improvement of ordinary highways and streets.

Section 38. KRS 94.170 is amended to read as follows:

Whenever any city of the third, fourth, fifth or sixth class determines to acquire or construct a sewerage system under the provisions of KRS 94.160, and the city cannot agree with the owner as to the compensation for the sale of any property located either within or without the boundaries of the city that is necessary to complete the system, the city may, after adopting and publishing an ordinance declaring the necessity, condemn and take possession of the property for that purpose in the manner provided in *the Eminent Domain*

Act of Kentucky [KRS 416.010 to 416.080].

Section 39. KRS 94.282 is amended to read as follows:

(1) Any city may acquire, maintain and operate a garbage disposal system, together with extensions and necessary appurtenances thereto within or without the limits of the city.

(2) If any such garbage disposal system is acquired from a company having a franchise, such system may be acquired as an electric plant may be acquired under the provisions of *the Eminent Domain Act of Kentucky* [KRS 96.550 to 96.900], except as otherwise provided in KRS 94.283 to 94.287.

Section 40. KRS 94.570 is amended to read as follows:

Whenever it is necessary for the purposes of a grade separation to condemn any property, the city legislative body may order the condemnation of the property in the manner provided in *the Eminent Domain Act of Kentucky* [KRS 94.680 to 94.720]. The proceedings therefor shall be prosecuted in the name of the city by the city solicitor.

Section 41. KRS 94.680 is amended to read as follows:

(1) When, in the opinion of the city legislative body of any city of the second class, land or other property, or right of way or easement over or through any property, is needed by the city to open, extend or widen any public way, to erect any public building or structure, to lay or construct any sewer or sewage disposal plant, or for any other public municipal purpose, either within or beyond the boundaries of the city and in the county in which the city is located, the city legislative body may, by resolution reciting the need, order the condemnation of the land or other property, right of way or easement.

(2) The proceedings for condemnation shall be in *accordance with the Eminent Domain Act of Kentucky* [the circuit court of the county in which the city is situated, and shall be conducted in the name of the city by the city solicitor. The proceedings shall be commenced by filing a petition against all persons having an interest in the property, describing the property, right of way or easement sought to be condemned, upon which summons shall be issued and proceedings carried on as nearly as may be as ordinary actions at law are conducted. Nonresidents and persons under disability shall be proceeded against as provided by the Rules of Civil Procedure. The owners of two (2) or more different properties sought to be condemned for the same purpose may be proceeded against in a single action, or the owners of any piece of property may be proceeded against in a separate action].

Section 42. KRS 94.750 is amended to read as follows:

Any city of the second class shall have all the rights, powers and privileges that are given to cities of the first class by KRS 93.352 to 93.356, as amended. In applying such sections to cities of the second class, any powers given by such sections to the director of works of a city of the first class shall be deemed to be given to the board of public works, superintendent of public works, department of public works or commissioner of public works of the city of the second class, whichever such city shall have, and condemnation procedure shall be as provided in *the Eminent Domain Act of Kentucky* [KRS 94.680 to 94.720] and *KRS* 104.170.

Section 43. KRS 96.080 is amended to read as follows:

Any person constructing, maintaining or operating waterworks or pipelines for the supply of water to a municipality may condemn lands and materials necessary to carry out those purposes, in the manner prescribed in *the Eminent Domain Act of Kentucky* [KRS 416.010 to 416.080].

Section 44. KRS 96.178 is amended to read as follows:

Any board proceeding under KRS 96.171 to 96.188 shall have the right to acquire by the exercise of the power of eminent domain, all lands, easements, rights of way, either upon or under or above the ground, reasonably necessary or desirable in connection with the operation, maintenance, improvement or extension of its electric and water plant. The condemnation or eminent domain proceedings shall be brought in the name of the board, and proceed in the form and manner now prescribed for the condemnation of land by *the Eminent Domain Act of Kentucky* [cities of their respective class].

Section 45. KRS 96.542 is amended to read as follows:

(1) Any city may acquire, maintain and operate an artificial gas system, together with extensions and necessary appurtenances thereto within or without the limits of the city.

(2) If any such artificial gas system is acquired from a company having a franchise, such system may be acquired [as an electric plant may be acquired] under the provisions of *the Eminent Domain Act of Kentucky* [KRS 96.550 to 96.900], except as otherwise provided in KRS 96.543 to 96.546 *and 96.600.*

Section 46. KRS 96.547 is amended to read as follows:

Except as provided in KRS 96.550 to 96.900, any city utility shall have the same rights with respect to condemnation and eminent domain as given corporations and partnerships under KRS 278.502 and KRS 416.130 [and the proceedings governing condemnation under KRS 278.502 shall govern proceedings under this section].

Section 47. KRS 96.600 is amended to read as follows:

[(1)] When the board of any municipality authorized to acquire, construct, own or operate an electric plant under the provisions of KRS 96.550 to 96.900 shall be unable to contract with the owner of any land, easement, right of way, electric plant, or any facilities or property needed by such board for its use for the purposes thereof and desires to exercise the right of eminent domain, the board shall *proceed to condemn the property pursuant to the Eminent Domain Act of Kentucky except that, in lieu of determining the award to the owners in the manner prescribed in Section 6, subsection (1) of this Act, the* [file in the office of the clerk of the county court a particular description of the property sought to be condemned, and may apply to the county court to appoint commissioners to assess the damages the owner or owners thereof may be entitled to receive, and thereupon said court shall appoint three (3) impartial housekeepers of the county who are landowners, and who shall be sworn to faithfully and impartially discharge their duties under this law.

(2) It shall be the duty of said] commissioners *shall* [to] ascertain and determine the value of the property taken; the value of real estate, tangible personal property, intangible property and franchises, if any such value is found to exist, shall be determined and stated separately in their report; and they shall also award damages, if any, resulting to the remainder of the electric plant or system of the owner, considering the purposes for which the property is taken, and the amount of said damages, if any, shall be stated separately in their report. *The jury award shall be made in this manner rather than in the manner prescribed in Section 14, subsection (1) of this Act.* [They shall return a report, in writing, to the office of the clerk of said court, stating their award, and shall describe in their report the property condemned, giving the name or names of the owners, and whether nonresidents of the state, infants, or incompetent persons.

(3) Upon the application of said board, and upon filing such affidavits as may be necessary, the clerk of said court shall issue process against the owner or owners to show cause why the said report should not be confirmed, and shall make such orders as to nonresidents and persons under disability as are required by the Rules of Civil Procedure in actions against them in the circuit court.

(4) At the first regular term of the county court, after the owners have been summoned ten (10) days, if the summons be served in the county, or if served outside the county twenty (20) days, or if the service is constructive thirty (30) days, it shall be the duty of the court to examine said report, and if it shall appear to be in conformity to this law, and to the extent that no exceptions have been filed thereto by either party, it shall confirm said report as against the owners not excepting.]

Section 48. KRS 96A.080 is amended to read as follows:

(1) A transit authority may establish mass transportation within its transit area, but may not inaugurate service in direct competition with any existing certificated carrier.

(2) In addition to the power conferred upon an authority by this chapter, an authority may acquire real or personal property, easements, franchises, bus certificates, or other rights by any lawful means necessary to its operation of any existing mass transit system within its transit area, provided that having acquired an existing transit system it shall not thereafter inaugurate service in direct competition with any other existing certificated carrier.

(3) An authority may, if unable to contract or agree with the owner or owners thereof, acquire real and personal property, franchises, bus certificates, easements and other rights when necessary in and to the accomplishments of the public purposes of the authority, through exercise of the power of eminent domain; provided, however, that in acquiring any private bus company pursuant to this section, the authority may not do so piecemeal but shall acquire the entire system including that which may be outside the area then included within the authority. An authority shall not condemn any real and personal property, franchises, bus certificates, easements and other rights of a private bus company the majority of whose passengers move between termini without the transit area. Any exercise of such power shall be initiated by resolution of the board of the authority identifying the properties or rights to be acquired, reciting the board's determination that acquisition by such means is necessary, and authorizing initiation of proceedings as required by law; and such resolution of the board of the authority shall not be conclusive of such determination but shall be subject to the approval of the fiscal court or courts of the county or counties in which the property sought to be condemned is located.

(4) Proceedings in the exercise of the power of eminent domain herein vested in an authority shall, except where inconsistent with this chapter, be such as are prescribed for the State Bureau of Highways by *the Eminent Domain Act of Kentucky* [KRS 177.082 to 177.089], inclusive, and as the same may be amended and supplemented from time to time. All such proceedings shall be governed by the provisions of the Rules of

Civil Procedure except where the provisions of this chapter or of *the Eminent Domain Act of Kentucky* [KRS 177.082 to 177.089], inclusive, specifically or by necessary implication provide otherwise. If a privately owned mass transportation system, or other property sought to be acquired by an authority, shall have been acquired or improved in whole or in part at the expense of the authority, the cost and value of such acquisitions and improvements shall be excluded in any proceedings to establish the fair value thereof.

(5) During any period when negotiations for the purchase of a mass transit system are in progress, and/or during any period when proceedings for acquisition of a mass transportation system through exercise of the power of eminent domain may be pending, an authority may make reasonable subsidy payments to the owner or owners of such mass transit system if, in the judgment of the board of the authority, such subsidy payments are necessary in order to give reasonable assurance that there will be no substantial reduction of transportation service to the public. Such subsidy payments may be made by an authority from any resources available to it, or from appropriations made or agreed to be made to it by any public body having an interest in the preservation of mass transit service to the public; and if bonds are ultimately issued for the purchase or other acquisition of such mass transit system, the aggregate amount of such subsidy payments may be included as a part of the cost of acquisition and made payable from the proceeds of such bonds. In no event, however, shall any action on the part of a board of an authority in this connection create an indebtedness of the authority beyond its available resources or such appropriations or the proceeds of such bonds, if and when bonds are issued.

Section 49. KRS 97.257 is amended to read as follows:

Whenever property shall be needed by any city of the first class for any park, playground, or community center purpose contemplated in KRS 97.250 to 97.257, either within or beyond the boundaries of such city, in the county in which such city is located, the director of parks and recreation may, with the consent of the legislative body of such city, order the condemnation of such property in the manner provided in *the Eminent Domain Act of Kentucky* [KRS 416.120].

Section 50. KRS 97.540 is amended to read as follows:

Whenever, in the opinion of the legislative body of any city of the third class, land or other property located either within or without the boundaries of the city and within the county in which the city is located is needed for cemetery or park purposes and the legislative body is not able to contract with the owner of the property for its purchase, the legislative body may, by resolution reciting such need, order the condemnation of such property. The proceedings shall be conducted in the manner provided in *the Eminent Domain Act of Kentucky* [KRS 416.010 to 416.080].

Section 51. KRS 97.680 is amended to read as follows:

The commission may acquire, by gift, purchase, lease or condemnation, any real or personal property situated wholly within the city or county, or any interest, franchise, easement, right or privilege in the city or county, of any buildings, tools, machinery, materials or supplies that may be required for the purpose of furnishing, maintaining or operating the memorial. The proceedings for condemnation shall be conducted in the name of the commission in the method prescribed by *the Eminent Domain Act of Kentucky* [KRS 416.120]. All property acquired by the commission shall be held, used and controlled by it for the purposes named in KRS 97.630 to 97.780.

Section 52. KRS 98.090 is amended to read as follows:

(1) The commission may:

(a) Make such preliminary investigations and do such preliminary work as should, in its judgment, precede the actual construction of the building or improvement.

(b) Determine upon a proper site for the building or improvement. If the city owns a public building, that site, as it exists or as enlarged by the acquisition of adjacent property recommended by the commission, shall be used unless the commission determines that it is unsuitable for the purpose and recommends to the mayor the acquisition of another site. The mayor shall submit the recommendation to the legislative body for approval. The new site shall be adopted only upon the approval of the change by legislative resolution approved by the mayor. In the event the existing building on the old site is to be abandoned, the old site may be sold and the proceeds applied to the purchase of the new site.

(c) Provide accommodations for patients or inmates of the existing public building while the new building is in course of erection and furnishing. The legislative body may, out of its levy for the department having supervision of such buildings, assume the whole or part of the expense of providing such temporary accommodations.

(d) Establish and enforce reasonable rules and regulations for its own government and for the supervision, protection, management and conduct of its work and the payment therefor as it deems expedient.

(e) Purchase, hire or otherwise obtain the use of such lands, buildings, machinery, supplies, materials and working agencies as it needs for its purposes.

(f) Acquire by gift, purchase, lease or condemnation, any property situated within the city or county where the city is located, or any interest or privilege in the property, required for the building or improvement. The method of condemnation shall be the same as in *the Eminent Domain Act of Kentucky* [KRS 416.120].

(2) The enumeration of special powers in this section does not restrict the general powers of the commission to carry out the purposes of KRS 98.040 to 98.170.

Section 53. KRS 99.420 is amended to read as follows:

Whenever in the opinion of the agency, land or other property, right of way or easement over or through any property is needed by the agency in order to accomplish the purposes of KRS 99.330 to 99.510, it may by resolution authorize the purchase or condemnation in the name of the agency, of the land or other property, or right of way or easement necessary for the purpose, and may proceed to condemn and acquire the property *pursuant to the Eminent Domain Act of Kentucky.* [in the following manner:

(1) The proceedings for condemnation shall be in the circuit court in the county in which the property sought to be condemned, or the greater part thereof, lies. The proceeding shall be in the name of the agency. Proceedings shall be commenced by filing a complaint against all persons having an interest in the property, describing the property, right of way (if any) or easement (if any) sought to be condemned, and the complaint shall include a request for the court, or a judge thereof if the court is in vacation, to appoint commissioners to assess the value which the owners thereof are entitled to receive. The owners of two (2) or more different properties sought to be condemned for the same purpose may be joined and proceeded against in a single action, but the lands and properties of each shall be separately described.

(2) Upon the filing of the complaint, the circuit court, or a judge thereof, shall, in writing, forthwith appoint three (3) disinterested, impartial citizens and residents of the county, who shall be sworn by the court, a judge thereof, or by any person authorized to administer oaths, to faithfully, fairly and impartially discharge their duties. The order appointing the commissioners shall be filed in the office of the clerk of the circuit court immediately upon its signing, and shall become part of the proceedings as of the date filed. In the event any person so appointed fails, refuses or becomes incapable of acting, the court, or judge thereof, shall forthwith appoint a qualified person to fill the vacancy. A majority of the commissioners appointed and qualified have the power to act and to make and sign the award and report.

(3) The commissioners shall immediately upon their appointment take the oath of office, and shall enter in and upon the property, right of way (if any) or easement (if any) sought to be condemned, and shall view same. They may hear evidence or make any inquiry they desire touching the value thereof. They shall award to the owner of each parcel of land and property the fair market value thereof. Property owned by the same owner, which is contiguous and adjacent may be considered as one (1) parcel and may be included by the commissioners under a single award. If less than an entire parcel of contiguous property belonging to the same owner is sought to be condemned, the commissioners shall also award to the owner the difference between the fair market value of the entire parcel of property before and after the taking. The award of the commissioners shall be filed by them, in writing, in the office of the circuit clerk, within fifteen (15) days after the day the order appointing the commissioners is filed in the office of the clerk of the circuit court, and shall be styled "Report and Award of Commissioners."

(4) Immediately upon the filing of the complaint, the clerk of the circuit court shall cause summons and process to issue against the defendants. The summons shall be issued in the same form and in the same manner as provided for upon the filing of a complaint under the Rules of Civil Procedure, except that the summons shall also contain the notification that the defendant shall serve his answer or other pleading within twenty (20) days after the filing of the report and award of the commissioners and notification that exceptions to the report and award of the commissioners must be filed within the same period of time. The action and proceedings shall be carried on as nearly as may be as ordinary civil actions at law are conducted. Nonresidents and persons under disability shall be proceeded against as provided by the Rules of Civil Procedure. Defenses and exceptions for nonresidents and persons under disability may be made and filed by any person authorized to make defense for such persons under the Rules of Civil Procedure.

(5) Any answer or other pleading filed by any defendant in response to the summons shall be confined solely to the question of the right of the agency to condemn the property sought to be condemned, but without prejudice to the right of the defendant, then and thereafter, within proper time, to file exceptions to the amount of compensation awarded in the report and award of the commissioners. Any issue raised in the answer or other pleading filed, putting in issue the right of the agency to condemn the property shall be promptly heard and decided by the court, without a jury. If the court finds the agency has no right to take the property in condemnation for the purpose of uses sought, it shall dismiss the complaint at the costs of the agency.

(6) If answer or other pleading is timely filed putting in issue the right of the agency to condemn the property, the time for filing exceptions to the report and award of commissioners shall automatically be

extended to a time not later than ten (10) days after the decision by the court of the issue, and if the court decides that the agency does have the right to take the property in condemnation for the purposes or uses sought, the defendants shall file exceptions, should they desire so to do, to the report and award of commissioners within ten (10) days, if same has not theretofore been filed. If the defendants do not file an answer or pleading putting in issue the right of the agency to condemn the property, or having filed same is not sustained by the court, and, in either event, if the agency and the defendants do not file exceptions to the report and award of commissioners within the time provided, then the amount of the award set forth in the report and award of commissioners shall become final and not subject to exception or review and shall become and be entered as the judgment of the court setting and fixing the value of the land to be taken, and incidental damages to the remainder, if any. The agency has twenty (20) days from the filing of the report and award of commissioners to file its exceptions, should it desire so to do, unless answer or other pleading is filed by defendants, in which event the agency has ten (10) days after the decision by the court on the issue raised by the answer or pleading to file its exceptions. If exceptions are based on the ground that the award of the commissioners is too small or too great, the exceptions must be accompanied by an affidavit of the party excepting, his agent or attorney, stating the amount of the award and damages, if any, the party believes is just and reasonable. For the purpose of appeal, the difference between the amount awarded by the commissioners and the amount the excepting party claims would be just and reasonable shall be the amount in controversy.

(7) If timely exceptions to the report and award of commissioners are filed by any of the parties, the matter of the value of the property sought to be condemned shall forthwith be submitted to a jury to determine and assess value and damages, if any, and the case shall be advanced and have preference over other common law cases on the docket. In assessing value and damages, if any, the report and award of the commissioners shall not be permitted to be introduced or become substantive evidence in the case for the consideration of the jury, but nothing shall prevent the commissioners from testifying, subject to the same rules as apply to other witnesses, in which event either party may question the commissioners concerning their report and award. Upon request of any of the parties, the court may, in its discretion, send the jury to view the premises, except that if the property is taken under interlocutory judgment, as hereinafter provided, the jury's right to view shall be limited and restricted to the land only, if the buildings and appurtenances thereon and thereto have been removed or substantially altered and changed, and the court shall so instruct the jury. Jurors shall have the same qualifications as jurors in civil cases. They may or may not be residents of the city or governmental division in which the land, or the greater portion thereof, lies, but shall be residents of the county wherein same, or the greater portion thereof, lies. A unanimous verdict of all jurors is required, but only the foreman of the jury need sign the verdict.

(8) Upon final determination of all issues raised either by answer or other pleading, or by exceptions to the report and award of commissioners, or if no answer, pleadings or exceptions be filed by any of the parties, the court shall forthwith enter a judgment, which shall be a final judgment, and shall make such orders as are necessary and proper for the conveyance of the land, property and rights, if any, to the agency, upon the payment into court through the clerk of the circuit court by the agency of the amount set forth in the judgment of the court, vesting in the agency absolute fee simple title to the land, property and rights, if any, as described in the complaint, or any supplement or amendment thereof. In the event the owners fail, refuse or are unable to convey to the agency full and complete fee simple title to the land, property and rights, free, clear and unencumbered, the court shall thereupon cause the commissioner of its court, or a special commissioner appointed by the court for that purpose, to execute and deliver to the agency a deed of conveyance therefor, which deed of conveyance shall be executed as nearly as practicable in accordance with the rules governing the conveyance of property by commissioners when sold under order of court, including all the right, title and interest which the defendants and each of them had, or may have had therein. If, however, the agency has not taken same under interlocutory judgment, it may abandon its rights to take the land, property and rights, if any, and same shall be deemed abandoned by it in the event it does not pay into court within sixty (60) days from the date of the entering of the final judgment, the amount set forth therein as the amount to be paid by the agency for the taking thereof. The bond provided for by CR 4.11 of the Rules of Civil Procedure shall not apply and be required of the agency in any action for condemnation brought hereunder.

(9) Notwithstanding any other provision of this section, the agency may, prior to the entering of a final judgment, and at any time after the report and award of commissioners is filed in the circuit court, and notwithstanding exceptions have been or may be filed, file a demand for an interlocutory judgment. Copy of the demand shall be served upon defendants or their attorney or the person authorized to make defense for any nonresident or person under disability, at least ten (10) days prior to presentation to the court, or a judge thereof, in the manner provided by Rule 5 of the Rules of Civil Procedure. The court, or judge thereof, shall thereupon enter an interlocutory judgment granting and awarding to the agency immediate possession and full and complete use and control of the land and property sought to be condemned, and the agency shall thereupon be entitled to take possession thereof and to use and control same, including the right to remove, demolish, raze and do away with all buildings, structures and appurtenances thereon or thereto belonging,

without let, hindrance, interruption or interference by the defendants, or anyone claiming under them, as fully as if title had been conveyed to it, and the court, or judge thereof, shall enforce same by appropriate order and proceedings; Provided, however, That before any interlocutory judgment is entered, the agency shall pay into the court, by depositing with the clerk of the circuit court, the amount contained and set forth in the report and award of commissioners, and shall at the same time file with the clerk a bond, with surety approved by the court, a judge thereof, or the clerk of the circuit court, conditioned upon the agency paying to the defendants the difference between the sum paid into court, and that which may thereafter be finally determined to be the value of the property or property rights, if any, or incidental damages, if any, unless the agency shall have sufficient sums duly appropriated, properly allocated to that purpose and on deposit to pay for any money judgments, including costs adjudged against the agency, that may thereafter be rendered against it, and if such facts are alleged in its complaint or in any supplement or amendment thereto, a bond shall not be required of it. If an interlocutory judgment is entered, and no answer, pleading or exceptions have been or are thereafter filed within time by any of the parties, final judgment shall be entered as provided for in subsection (8) of this section. If answer, pleading or exceptions are filed, the case shall proceed as provided for in cases where no interlocutory judgment has been demanded and entered, and wherein answer, pleading or exceptions are filed, and the interlocutory judgment shall remain in full force and effect. If the final judgment is greater than the amount paid into court by the agency under the report and award of the commissioners, the agency shall thereupon pay into court by depositing with the clerk of the circuit court the difference between the amount paid by the agency under the interlocutory judgment and the amount finally determined by the final judgment to be the value. If the difference be less, then the court shall direct the clerk to return and refund the difference to the agency out of the amount paid into court under the interlocutory judgment, if said sum has not been withdrawn by the defendants, or if withdrawn by the defendants, the court shall enter judgment in favor of the agency against the defendants and their surety for said difference, together with interest at six per cent (6%) per annum on the amount of the decrease from the date of withdrawal. The defendants, upon the payment by the agency into court of the amount set forth in the report and award of the commissioners, may, upon written demand, a copy of which shall be served upon the agency or its attorney at least ten (10) days prior to withdrawal of the funds, subject to approval by the court, withdraw from the clerk of the circuit court the amount, provided defendants execute a bond, with surety approved by the court, or a judge thereof, conditioned upon the payment to the agency by the defendants of any amount which may be determined to be the difference between the amount paid into court by the agency and the final judgment in the case, should it be finally determined that the amount paid into the court by the agency was greater than the amount set forth in the final judgment, or that the defendants receiving the funds were not the proper persons to receive same. The withdrawal of the amount by the defendants shall not prejudice or prevent defendants from filing answer, pleading or exceptions in the case, or from pursuing same if already filed, or taking any appeal, the same as if no withdrawal had been made. If defendants withdraw the amount paid into court by the agency, they shall be entitled to interest at six per cent (6%) per annum from the date of the taking of possession by the agency only on the amount by which said sum may thereafter be increased. If defendants do not withdraw the amount paid into court by the agency, they shall be entitled to interest at six per cent (6%) per annum from the date of the taking of possession by the agency only on the amount determined by the final judgment to be the value and amount defendants are entitled to receive for the land and property taken. The demand for an interlocutory judgment and the entering thereof is an additional remedy and right granted the agency, and the case shall continue and be disposed of in the same manner as if no interlocutory judgment had been demanded or entered.

(10) All money paid into court, or to the clerk of the circuit court, whether under an interlocutory judgment or a final judgment shall be received and held by the clerk subject to the order of the court, and the clerk and his sureties on his official bond shall be responsible to the persons entitled thereto.

(11) Where there are conflicting interests and claims in land and property sought to be condemned and all such parties are before the court, the claims and equities of any claimant and owner shall be decided by the court or jury, as the case may be, and the funds paid into court under an interlocutory judgment or final judgment shall be subject thereto. Such claims or determination of rights shall in no wise stay or delay said condemnation proceedings.

(12) If more than one (1) piece of property is involved, owned by different persons, the jury shall render a separate verdict as to the property of each person, or the court may direct a separate trial for each piece of property owned by different persons.

(13) An appeal may be taken by either party in interest from the circuit court to the Court of Appeals in the manner, for any of the causes and subject to the rules provided by general laws regarding appeals from circuit court to the Court of Appeals, but no appeal or supersedeas shall suspend the right of the agency to have possession of the property, easement or right of way condemned. Such appeals shall be advanced on the docket of the Court of Appeals.

(14) A slum area or blighted area acquired for a housing project by the housing authority of the community may be included in a redevelopment area and the use of such area for redevelopment shall be a

public use as though such area were originally acquired for a redevelopment project.]

Section 54. KRS 103.245 is amended to read as follows:

An industrial building within the meaning of KRS 103.200 may be acquired by a city or a county by purchase, gift, or condemnation. Whenever a city or a county shall determine that land or other property, right of way, or easement over or through any property is needed by such city or county, as the case may be, to accomplish the purposes of KRS 103.200 to 103.285, inclusive, it may by ordinance or resolution authorize the purchase or condemnation, in the name of such city or county, of said land or other property, or right of way or easement necessary for such purposes, and may proceed to condemn and acquire such property in the [same] manner *set forth in the Eminent Domain Act of Kentucky.* [by which an urban renewal and community development agency is permitted and authorized to acquire property under the provisions of KRS 99.420, and in accordance with the procedures therein set out, except that all] *All* property, rights of way and easements already held by its owner or lessee for industrial development shall be exempt from condemnation under this section.

Section 55. KRS 104.010 is amended to read as follows:

(1) Whenever in the opinion of the fiscal court of any county the title to or any interest in real property within the county is needed for the purposes of flood control and the fiscal court cannot acquire such property by agreement with the owners thereof, whether by reason of disagreement as to the price or by reason of any other cause, the fiscal court shall adopt a resolution setting forth the foregoing facts and ordering the condemnation of the required property, giving a general description thereof, together with the names of the owners thereof where they are known to the fiscal court, and directing the county attorney to institute the proceedings. The condemnation proceedings *shall* [may] be had in the county court under the procedure prescribed in *the Eminent Domain Act of Kentucky* [KRS 416.110, or may be had in the circuit court under the procedure prescribed in KRS 416.120, the selection as to which procedure to be followed being made by the fiscal court in the resolution ordering the condemnation].

(2) The legislative body of any city shall have the same power to condemn real property, lying within or without the corporate limits of the city, for flood control purposes, as is given to the fiscal court of a county by subsection (1) of this section. The condemnation proceedings shall be instituted and prosecuted by the city attorney.

(3) This section is intended to constitute an alternate method of acquiring property for flood control purposes, in addition to, and not as a substitute for, any other method authorized by law.

Section 56. KRS 104.070 is amended to read as follows:

If it becomes necessary to acquire rights of way, land, easements or borrow-pits, or other property, and it cannot be acquired by purchase, the governing authority may condemn and obtain the needed property in the manner provided by *the Eminent Domain Act of Kentucky* [KRS 416.010 to 416.080, or, alternatively, in the manner provided by the statutes for the condemnation of property for public purposes by the particular class of city exercising the authority of KRS 104.020 to 104.160].

Section 57. KRS 104.170 is amended to read as follows:

Whenever in the opinion of the governing body of any city, county, flood control, drainage, levee, reclamation or soil conservation district any land or other property or right of way or easement over or through any property, is needed by the city, county, flood control, drainage, levee, reclamation or soil conservation district to perform work or construct structures or improvements for flood control, flood protection or drainage purposes, or to permit others, including the United States of America or any governmental department, branch or agency thereof, to perform work or construct structures or improvements for flood control, flood protection or drainage purposes, either within or beyond the boundaries of the city, county, flood control, drainage, levee, reclamation or soil conservation district, the governing body may, by resolution reciting the need, order the condemnation of the land or other property, or right of way or easement, needed for such purpose or project, and may proceed to condemn and acquire title to any such land or other property, or right of way or easement, as provided by and pursuant to the provisions of *the Eminent Domain Act of Kentucky* [KRS 94.680 to 94.720], and as further provided by and pursuant to the provisions hereinafter set out:

(1) The judge of the *county* [circuit] court shall, upon the filing of a petition by the city, county, flood control, drainage, levee, reclamation or soil conservation district, seeking condemnation of any of such land or other property, or right of way or easement for such purpose or project, grant and award immediate possession and full and complete use and control of said land or other property, or right of way or easement to the city, county, flood control, drainage, levee, reclamation or soil conservation district by an interlocutory judgment which shall be rendered immediately after the filing of the report by the commissioners duly appointed pursuant to the provisions of *the Eminent Domain Act of Kentucky* [KRS 94.690], and the city,

county, flood control, drainage, levee, reclamation or soil conservation district shall thereupon be entitled to take possession thereof and to use and control the same for the purpose for which it is being condemned as fully as if the title had been conveyed to it; however, prior to the rendering of the interlocutory judgment, the city, county, flood control, drainage, levee, reclamation or soil conservation district shall be required to pay into court the sum awarded by the commissioners in their report for such land or other property, or right of way or easement. The court shall, after having rendered said interlocutory judgment, upon motion by the city, county, flood control, drainage, levee, reclamation or soil conservation district, make such orders as may be necessary and proper for the conveyance of title to such land or other property or property rights to the city, county, flood control, drainage, levee, reclamation or soil conservation district, by a deed of conveyance therefor, to be executed by the regular court commissioner or a special commissioner appointed by the court for this purpose, which deed shall be executed as nearly as practicable in accordance with the rules governing the conveyance of property by commissioners when sold under order of court.

(2) The commissioners appointed pursuant to *the Eminent Domain Act of Kentucky* [KRS 94.690] may report at any time after summons has been duly issued or warning order attorney appointed. Thereafter, either party may, before answer day, file written exceptions to said report, as provided in *the Eminent Domain Act of Kentucky* [KRS 94.700], except that the city's, county's, flood control, drainage, levee, reclamation or soil conservation district's exceptions, if any, shall be made and filed prior to the entry of said interlocutory judgment. The sum not in controversy shall be paid or tendered to the parties defendant by the court prior to the entry of said interlocutory judgment.

(3) It is further provided that before rendering the interlocutory judgment, the court shall require the city, county, flood control, drainage, levee, reclamation or soil conservation district to execute a bond, with surety to be approved by the court, conditioned upon the city, county, flood control, drainage, levee, reclamation or soil conservation district paying to the parties defendant the difference between the sum paid into court and that which may thereafter be finally determined to be the value of the property or property rights and incidental damages, if any, if the parties defendant except to the report of the commissioners, unless the city, county, flood control, drainage, levee, reclamation or soil conservation district shall have sufficient funds duly appropriated, properly allocated to that purpose, and on deposit to pay any money judgments, including all costs adjudged against the city, county, flood control, drainage, levee, reclamation or soil conservation district, that may thereafter be rendered against it, and such fact or facts shall be alleged in its petition for condemnation.

(4) The city, county, flood control, drainage, levee, reclamation or soil conservation district shall not be permitted to abandon the condemnation proceeding after having obtained possession and title to said land or other property or property rights unless none of the parties defendant will be materially prejudiced thereby.

(5) The proceedings for condemnation under the provisions of this section shall be conducted in the name of the city, county, flood control, drainage, levee, reclamation or soil conservation district by its regular attorney or by special counsel employed and designated by it to conduct such condemnation proceedings for such purpose, which power to employ and designate special counsel for such purpose is granted the city, county, flood control, drainage, levee, reclamation or soil conservation district [notwithstanding the provisions of subsection (2) of KRS 94.680, requiring condemnation proceedings by second-class cities to be conducted in the name of the city solicitor].

Section 58. KRS 104.180 is amended to read as follows:

Cities of the fourth class in this commonwealth are hereby authorized and empowered to acquire land by purchase or condemnation for the purpose of straightening or widening any creek or creeks running through the corporate limits of the city to prevent or lessen the overflow thereof and consequent damage to any street or alley or parts of any street or alley therein or the health of its inhabitants; and, if any land for this purpose cannot be acquired by the city by purchase, the legislative body of such city may adopt an ordinance declaring the necessity for the acquisition of such land for any of the above stated purposes and authorizing and directing the institution of proceedings to condemn the property. Such condemnation proceedings shall be in accordance with *the Eminent Domain Act of Kentucky* [KRS 416.010 to 416.080].

Section 59. KRS 104.350 is amended to read as follows:

If it becomes necessary to acquire rights of way, land, easements or borrow-pits, or other property, the governing authority may condemn and obtain the needed property in the manner provided by *the Eminent Domain Act of Kentucky* [KRS 416.010 to 416.080, or, alternatively, in the manner provided by the statutes for the condemnation of property for public purposes by such city].

Section 60. KRS 106.230 is amended to read as follows:

(1) When the board of any water district or municipality authorized to acquire, construct, own or operate a waterworks or water distribution system and appurtenances thereto, under the provisions of this chapter shall be unable to contract with the owner of any land, easements, rights of way, waterworks, water

distribution systems and appurtenances thereto, or any facilities or property needed by such board for its use for the purposes thereof and desires to exercise the right of eminent domain, the board shall *proceed pursuant to the Eminent Domain Act of Kentucky.* [file in the office of the clerk of the circuit court a particular description of the property sought to be condemned, and may apply to the circuit court to appoint commissioners to assess the damages the owner or owners thereof may be entitled to receive, and thereupon said court shall appoint three (3) impartial housekeepers of the county who are landowners, and who shall be sworn to faithfully and impartially discharge their duties under this law.

(2) It shall be the duty of said commissioners to ascertain and determine the value of the property taken, the value of real estate, tangible personal property, intangible property and franchises if any such value is found to exist shall be determined and stated separately in their report; and they shall also award damages, if any, resulting to the remainder of the waterworks, water distribution system and appurtenances thereto of the owner, considering the purposes for which the property is taken, and the amount of said damages, if any, shall be stated separately in their report. They shall return a report, in writing, to the office of the clerk of said court, stating their award, and shall describe in their report the property condemned, give the name or names of the owners, and whether nonresidents of the state, infants, or incompetent persons.

(3) Upon the application of the said water district commissioners or the legislative body of the municipality herein referred to as the board, and upon filing such affidavits as may be necessary, the clerk of said court shall issue process against the owner or owners to show cause why the said report should not be confirmed, and shall make such orders as to nonresidents and persons under disability as are required by the Rules of Civil Procedure in actions against them in the circuit court.

(4) At the first regular term of the circuit court, after the owners shall have been summoned the length of time prescribed by the Rules of Civil Procedure before an answer is required in circuit court, it shall be the duty of the court to examine said report, and if it shall appear to be in conformity to this law, and to the extent that no exceptions have been filed thereto by either party, it shall confirm said report as against the owners not excepting.]

Section 61. KRS 108.010 is amended to read as follows:

To serve the public interest and provide a means of meeting problems of local government in urban areas, there may be established and operated under the provisions of this chapter an urban services district. Such a district shall be a public body corporate and political subdivision, with power to adopt and use a corporate seal, sue and be sued, contract and be contracted with, and in other ways to function as a municipal corporation or a natural person within the purview of this chapter. In addition to the general grants of power of this chapter, such a district shall have the specific authority provided for in KRS chapters 58, 66, 79 and 107. The district shall have the power of eminent domain and shall follow the procedures outlined in *the Eminent Domain Act of Kentucky* [KRS 416.120].

Section 62. KRS 108A.070 is amended to read as follows:

(1) Certification of a new community district shall constitute adoption of the development criteria filed with the petition as the planning intent of the county for the use of land within the district and shall exempt such area from all housing restrictions and building codes in order to promote innovation and experimentation.

(2) No land within the new community district shall be used except in accordance with a development plan based on the criteria filed with the petition. The petitioner shall make every reasonable effort to acquire all of the real property within the district by negotiated purchase at a fair and reasonable price.

(3) If the petitioner is unable to acquire portions of the land within the district by negotiated purchase, the new community district may acquire such land for public uses, such as schools, roadways, park and open space, and utilities, but not for private residential or commercial uses, by condemnation in accordance with the procedure provided in *the Eminent Domain Act of Kentucky* [KRS 108A.080].

Section 63. KRS 109.160 is amended to read as follows:

The board may by resolution reciting the need, order the condemnation on behalf of the district of any real property or interest therein that in the opinion of the board is necessary for the proposed construction or use of a disposal method. Proceedings for condemnation shall be conducted in the manner prescribed in *the Eminent Domain Act of Kentucky* [KRS 416.230 to 416.310].

Section 64. KRS 148.235 is amended to read as follows:

The Breaks Interstate Park commission may acquire by condemnation in the manner provided in *the Eminent Domain Act of Kentucky* [KRS 416.010 to 416.080] such lands lying within this state as may be necessary to be acquired for purposes of the Breaks Interstate Park. Deeds to land in this state comprising the Breaks Interstate Park shall be in the name of the Breaks Interstate Park commission, KRS 56.030 notwithstanding. Subject to the approval of the governor, the state property and buildings commission is hereby empowered to convey by deed to the Breaks Interstate Park commission all right, title and interest of the commonwealth in and to all real property now held in behalf of this commonwealth and comprising the Breaks Interstate Park.

Section 65. KRS 150.024 is amended to read as follows:

The department shall have the right to acquire such property as may be necessary to carry out the purpose of this chapter, and it shall have the right of eminent domain as provided in *the Eminent Domain Act of Kentucky* [KRS 416.010 to 416.080].

Section 66. KRS 152.840 is amended to read as follows:

(1) The purpose, duties and powers of the authority shall be to:

(a) Acquire, retain and develop land for industrial and commercial purposes in Kentucky; aid in the development and promotion of industrial sites, parks and subdivisions to meet industrial and commercial needs in Kentucky.

(b) Encourage the acquisition, retention and development of land for industrial and commercial needs in Kentucky by other local development organizations, both public and private.

(c) Cooperate with the U. S. army corps of engineers and other federal agencies in formulating development plans and in acquiring and developing land for industrial and commercial purposes in accordance with these plans.

(d) Acquire by contract, lease, purchase, gift, condemnation or otherwise any real or personal property, or rights therein, necessary or suitable for establishing industrial sites, parks or subdivisions. The authority may dispose of any real or personal property, or rights therein, which in the opinion of the authority are no longer needed to carry out the purposes of KRS 152.810 to 152.930. The authority may sell or convey any or all land owned or optioned by it to any public or private organization, governmental unit, or industry for the purpose of constructing and/or operating any industrial or commercial facility. Provided, however, that no sale or conveyance of any land shall be made to a private organization or industry without such organization or industry first having executed a written contract with the authority providing that if no actual construction of an industrial facility is commenced within two (2) years, the organization or industry shall reconvey the land, free and clear of liens and encumbrances, to the authority, and the authority shall return to the organization or industry 95 per cent of the purchase price paid therefor.

(2) Upon the adoption by the authority of a resolution reciting that property is needed for industrial sites, parks and subdivisions and cannot be acquired by negotiation and purchase at its fair market value, the governmental units in which such land is located may direct and institute condemnation procedures in the name of such governmental units, for the use and benefit of the authority. The procedure for condemnation shall conform to the procedure set out in *the Eminent Domain Act of Kentucky* [KRS 416.120]. Upon acquisition of the property, the governmental unit shall convey the property to the authority upon payment by the authority to the governmental unit of an amount of money equal to the judgment and costs paid by the governmental unit.

Section 67. KRS 162.030 is amended to read as follows:

Each board of education may, when unable to make a contract satisfactory to the board with the owner for the purchase of real estate to be used for school purposes, initiate condemnation proceedings *pursuant to the Eminent Domain Act of Kentucky* [under any of the methods of condemnation authorized by KRS 416.010 to 416.080, KRS 416.120, and KRS 416.230 to 416.310], and the title to land so obtained shall be vested in fee simple.

Section 68. KRS 164.260 is amended to read as follows:

The board of trustees may acquire additional lands or other property or material for the purpose of expanding its plant and extending its usefulness. When unable to contract with the owner of land or other property or material necessary for the purposes of the university, it may acquire the same by condemnation proceedings in the manner provided in *the Eminent Domain Act of Kentucky* [KRS 416.010 to 416.080].

Section 69. KRS 164.410 is amended to read as follows:

Each board of regents may, on such terms as it regards best for the university or college, purchase or lease land for the purpose of securing the erection of buildings, and may receive by any legal mode of conveyance, purchase and hold property of any description that the board deems necessary for the purposes of the school, and may build and construct improvements for such purposes and hold or sell the same. If a board of regents is unable to agree with the owner of such real estate as to its value, or to its purchase, it may proceed in its own name to condemn such real estate in the manner provided in *the Eminent Domain Act of Kentucky* [KRS 416.010 to 416.080]. Real estate acquired by purchase or condemnation shall be paid for out of money appropriated to the university or college. Each board of regents may, when it regards it best for the school, sell and convey any real estate, buildings or equipment owned by it, but the proceeds arising from the sale must be reinvested in other real estate, buildings and equipment for the use of the university or college.

Section 70. KRS 165.070 is amended to read as follows:

The board of trustees of a municipal university in a city of the first class may acquire, by purchase or gift, lands and improvements for the purpose of expanding the plant and extending the usefulness of the university, and when unable to agree with the owner of land and improvements necessary for the purposes of the university may proceed to condemn the land and improvements. The condemnation proceedings shall be conducted in the manner provided in *the Eminent Domain Act of Kentucky* [KRS 416.120].

Section 71. KRS 165.195 is amended to read as follows:

The board of trustees of a municipal college in a city of the second class may acquire, by purchase or gift, lands and improvements for the purpose of expanding the plant and extending the usefulness of the college, and when unable to agree with the owner of land and improvements necessary for the purposes of the college may proceed to condemn the land and improvements. The condemnation proceedings shall be conducted in the manner provided in *the Eminent Domain Act of Kentucky* [KRS 416.230 to 416.310].

Section 72. KRS 166.100 is amended to read as follows:

The state board of education may purchase, hold and sell real and personal property in the name of the commonwealth for the use and benefit of the West Kentucky Vocational School and may condemn real estate in the manner provided by *the Eminent Domain Act of Kentucky* [KRS 416.010 to 416.080]. The board may construct improvements and do all things it deems necessary in carrying out the purposes for which the school is maintained. Revenue accruing by reason of the sale or conveyance of any real estate or building owned by it shall be re-invested in other real estate and buildings for use of the school. All appropriations, grants, bequests or donations for a specified use shall be applied to that use and no other.

Section 73. KRS 168.100 is amended to read as follows:

The authority shall have no power of taxation, nor is it vested with the police power of the commonwealth, except insofar as the exercise of the power of eminent domain may be deemed a part thereof. Otherwise, in general terms, it shall have and is hereby given all such constitutional powers as are necessary to its accomplishment of the purpose and implementation of the public policy set forth in KRS 168.010. Without limiting the generality of the foregoing, but only for assurance to parties from time to time transacting business with the authority, and who may demand and be entitled to assurance, the following specific powers are hereby vested in the authority:

(1) To receive and use in the furtherance of its lawful objectives such state funds as may be appropriated or allotted to it from time to time, any funds received for services rendered under contract or from the sale of property owned by it, and contributions, matching funds, gifts, bequests and devises from any source, whether state or federal, and whether public or private; unless the same be tendered subject to one or more conditions which are inconsistent with KRS 168.010 to 168.100, or otherwise unlawful;

(2) To make contracts and agreements whereunder the authority may undertake to provide educational television facilities and related functions and facilities to or for any public body of the state or federal government in furtherance of educational television or in aid of any other public function; Provided, however, it shall be an express provision of every such contract that the authority will not undertake to transmit or relay, and will not permit any other party to transmit or relay, in the use of the authority's television facilities, any subversive matter, any political propaganda, or any image or message in the interests of any political party or candidate for public office; or be used by, or in aid of, any church, sectarian or denominational school; but this proviso is not intended and shall not be construed to be a limitation upon dissemination by the authority of legitimate objective instructional material which is properly related to the study of history or of current events, or which is no more than factually informative, of current issues of government or of various political ideologies;

(3) To produce, prepare, transmit and relay, either from life or by recording on tape or films, educational television programs and related services not inconsistent with the curricula prescribed or approved for the public schools of the commonwealth by the department or the board;

(4) To purchase or lease from others, or to contract with others for the use of, or the right to transmit or relay similar educational television programs and related services, whenever in the opinion of the authority the same are suitable and cannot be produced as effectively or economically through the use of its own facilities;

(5) To purchase, lease or otherwise acquire, and to operate, television and related facilities deemed by the authority to be necessary in the furtherance of its lawful objectives; and in this connection to acquire property by the exercise of the power of eminent domain, in the manner authorized for the highway department by *the Eminent Domain Act of Kentucky* [KRS 177.081 to 177.089], whenever the same cannot be purchased, leased, or otherwise acquired at a reasonable price after reasonable negotiations with the owner or

owners. In all such matters, the authority shall be subject to the provisions of KRS chapters 45 and 56;

(6) To prescribe standards for receiving instruments which are purchased in the future for use in the public schools, in order that reception of educational television programs and related services may be acceptable and in conformity with the manner of transmission thereof; and to disseminate such standards together with technical information with regard to installations and use of receiving instruments to all of the public school districts, or to such as may request the same;

(7) In its discretion and within the limitation of availability of funds from any sources, to

(a) Establish a program of matching funds as an inducement to public school districts to purchase and install proper facilities for receiving and utilizing educational television programs and related services, especially in situations where by reason of topographical difficulties of reception, special antennas or other equipment may be required, and/or

(b) If so requested by the boards of education of a sufficient number of public school districts, to purchase through the department of finance, subject to the provisions of KRS chapter 45, receiving instruments on their behalf on a wholesale basis for the purposes of economy, any such purchases to be on a public competitive basis after due advertisement according to law, but restricted to such receiving instruments as meet the standards prescribed by the authority.

Section 74. KRS 177.081 is amended to read as follows:

(1) The commonwealth of Kentucky, bureau of highways, when it has, by official order, designated the route, location or relocation of a highway, limited access highway, bridge, roadside park, borrow pit, quarry, garage or other property or structure deemed necessary for the construction, reconstruction, or maintenance of an adequate system of highways, may, if unable to contract or agree with the owner or owners thereof, condemn the lands or material, or the use and occupancy of the lands designated as necessary. All property acquired *by the Commonwealth of Kentucky, bureau of highways,* [under the provisions of KRS 177.081 to 177.089] shall be in fee simple whenever so specified in the petition filed in the action. The official order of the bureau of highways shall be conclusive of the public use of the condemned property and the condemnor's decision as to the necessity for taking the property will not be disturbed in the absence of fraud, bad faith, or abuse of discretion.

[(2) The provisions of KRS 177.081 to 177.089 shall apply whether cost of property condemned is borne by commonwealth of Kentucky, department of highways, or any county or municipality thereof.]

(2) [(3)] The proceedings for condemnation shall be as provided in *the Eminent Domain Act of Kentucky* [KRS 177.081 to 177.089].

[(4) All proceedings under KRS 177.081 to 177.089 shall be governed by the provisions of the Rules of Civil Procedure except where the provisions of KRS 177.081 to 177.089 specifically or by necessary implication provide otherwise.]

Section 75. KRS 177.082 is amended to read as follows:

The commonwealth of Kentucky, bureau of highways, when seeking to condemn lands and material and the use and occupancy of lands, under the provisions of KRS 177.081, shall direct the county attorney or any attorney authorized to represent the commonwealth to file a petition in the office of the county court clerk in the county in which all or the greater portion of the land or material is located. If any authorized attorney, other than the county attorney, is directed to file the petition, the county attorney shall assist in the prosecution of the action. The petition shall be filed in the name of the commonwealth of Kentucky, bureau of highways and may join as plaintiff the county in which any part of the property is situated, or in which the petition is filed, or any municipality thereof. [It shall state that it is filed under the provisions of KRS 177.081 to 177.089 and shall contain, in substance:

(1) Allegations sufficient to show that the petitioner is entitled, under the provisions of KRS 177.081, to condemn the lands and material and the use and occupancy of the lands in question;

(2) A particular description of the land, the use and occupancy thereof, and the material sought to be condemned;

(3) An application to the county court to appoint commissioners to award the amount of compensation the owner thereof is entitled to receive therefor.]

Section 76. KRS 177.090 is amended to read as follows:

(1) The bureau of highways is hereby authorized to acquire and improve strips of land necessary for the restoration, preservation, and enhancement of scenic beauty within and adjacent to federal-aid highways of this state, including acquisition and development of publicly owned and controlled rest and recreation areas and sanitary and other facilities within or adjacent to the highway right of way reasonably necessary to accommodate the traveling public.

(2) The interest in any land authorized to be acquired and maintained under this section may be the fee simple or any lesser interest, as determined by the bureau of highways to be reasonably necessary to

accomplish the purposes of this section. Such acquisition may be by gift, purchase, exchange, or condemnation.

(3) The acquisition through condemnation shall be in accordance with the provisions of *the Eminent Domain Act of Kentucky* [KRS 177.081 to 177.089].

Section 77. KRS 177.867 is amended to read as follows:

(1) The secretary of the department of transportation is authorized to acquire by purchase, gift, or condemnation pursuant to *the Eminent Domain Act of Kentucky* [KRS chapter 177] and shall pay just compensation upon the removal of the following advertising devices:

(a) Those lawfully in existence on October 22, 1965;

(b) Those lawfully on any highway designated a part of the interstate or federal-aid primary system on or after October 22, 1965, and before January 1, 1968; and

(c) Those lawfully erected on or after January 1, 1968.

(2) Compensation shall be paid for the following:

(a) The taking from the owner of any such advertising device of all right, title, leasehold, and interest in such advertising device; and

(b) The taking from the owner of the real property on which the advertising device is located, of the right to erect and maintain such advertising devices thereon.

Section 78. KRS 178.110 is amended to read as follows:

(1) If the court decides to establish or alter a county road, bridge or landing, and the compensation to be paid for the right of way cannot be fixed by agreement, the right of way shall be condemned under the procedure set forth in *the Eminent Domain Act of Kentucky* [KRS 416.100].

(2) In case of roadbeds or bridges, or a portion of them, washing or slipping away, or in case of extreme emergency, and when in its judgment conditions warrant it, the county court may immediately open and have surveyed a road or passway to be temporarily used while the commissioners appointed under *the Eminent Domain Act of Kentucky* [KRS 416.100] are acting, or while the matter is pending in the court to establish a permanent road or passway, and the commissioners shall assess the damages of the temporary road or use thereof. The same proceedings shall be had to recover damages as in recovery in regard to other roads.

(3) But when such compensation is ascertained it shall be at the option of the county court to pay it or to abandon the proposed undertaking. If it decides to pay the compensation, the fiscal court of the county shall include in its next levy an amount sufficient therefor.

(4) Not more than two (2) acres shall be condemned for a landing.

Section 79. KRS 178.120 is amended to read as follows:

Whenever the fiscal court of any county deems it to be in the best interest of the county to open, establish, construct, alter or repair any public road, street, alley, ditch or bridge of the county and the fiscal court is unable to contract with the owner of the land, required for such purpose, for its purchase or to acquire the same by gift, the land may be condemned under the procedure set forth in *the Eminent Domain Act of Kentucky* [KRS 416.110].

Section 80. KRS 178.125 is amended to read as follows:

(1) Whenever the fiscal court of any county deems it to be in the best interest of the county to acquire additional land adjacent to an existing county road to provide for future widening and improvement of said road, and the fiscal court is unable to contract with the owners of the land required for such purposes for its purchase or to acquire the same by gift, the land may be condemned under the provisions set forth in *the Eminent Domain Act of Kentucky* [KRS 416.110 or KRS 416.115].

(2) The resolution authorizing condemnation shall set forth the facts of the proposed acquisition, including a description of the land sought to be acquired, which description may be stated in widths from the existing centerline of the road proposed to be improved. In condemnation for future improvement under this section it shall not be necessary for the county to have completed plans for actual construction; Provided, the property owner is furnished with an accurate description of the property sought to be condemned. The right of way thus obtained shall be for reasonably foreseeable future construction and improvement in conformity with the existing grade of said road and with free access to adjacent property.

Section 81. KRS 180.030 is amended to read as follows:

(1) When the bureau cannot by agreement with the owner acquire any bridge or the real or personal property or rights needed for bridge or approach purposes, it may condemn such bridge, real or personal property or rights in the manner provided in *the Eminent Domain Act of Kentucky* [KRS 416.010 to 416.080].

(2) The attorney general shall represent the bureau in condemnation proceedings, and he shall be assisted by the county attorneys of the county or counties where the property is located.

(3) Real estate used by any steam or electric railroad as a right of way shall not be condemned for bridge or approach purposes.

Section 82. KRS 180.270 is amended to read as follows:

If the bureau is unable to contract with the owner of the competing ferry for the purchase of the ferry, the bureau may institute condemnation proceedings in the county where the ferry is located, for the purpose of acquiring the ferry. The condemnation proceedings shall be in the name of the state, under the procedure set out in *the Eminent Domain Act of Kentucky* [KRS 416.010 to 416.080]. In the proceeding the bureau shall be represented by the attorney general and by the county attorney of the county in which the proceedings are filed. Where the ferry operates between two (2) counties the proceedings may be filed in either county.

Section 83. KRS 181.620 is amended to read as follows:

(1) Whenever a reasonable price cannot be agreed upon, the commission may condemn any property necessary or convenient for the improvement or the efficient operation of any property acquired or constructed under KRS 181.560 to 181.840, or for the purpose of constructing any bridge or portion of bridge, or for securing a right of way leading to the bridge or its approaches, in the manner provided in *the Eminent Domain Act of Kentucky* [KRS 94.680 to 94.720].

(2) The commission may also exercise in Kentucky and adjoining states such powers of eminent domain as are conferred upon the city or commission by any act of congress.

(3) Title to any property condemned by the commission shall be taken in the name of the city. The city shall be under no obligation to accept and pay for any property condemned, or any costs incidental to any condemnation proceedings, and shall in no event pay for property condemned or the cost of the proceedings except from the funds received under the provisions of KRS 181.560 to 181.840.

(4) The court having jurisdiction of the condemnation proceedings may make such orders as may be just to the city and to the owners of the property to be condemned, and may require a bond or other security to secure the owners against any loss or damage to be sustained by reason of the failure of the city to accept and pay for the property. The bond or security shall impose no liability upon the city, except such as may be paid from the funds received under KRS 181.560 to 181.840.

Section 84. KRS 182.170 is amended to read as follows:

(1) Except as provided in KRS 182.010, in order to build a mill or factory useful to the public, any person who owns land on a watercourse, the bed of which belongs to him or the state, may obtain leave, and acquire by condemnation land sufficient to establish a dam in or across the watercourse, or to raise an established dam, or to cut or enlarge a canal above or below.

(2) Condemnation shall be in the manner provided by *the Eminent Domain Act of Kentucky* [KRS 416.010 to 416.080]. The proceedings shall be brought in the county in which the principal part of the land asked to be condemned is situated, and shall embrace all the land demanded, whether lying in the same county or not.

Section 85. KRS 183.122 is amended to read as follows:

(1) Where necessary, in order to provide unobstructed air space for the landing and taking off of aircraft utilizing airports acquired or operated under the provisions of this chapter, the bureau is hereby granted authority to condemn and acquire, in the same manner as is provided for the acquisition of property for airport purposes, easements through or other interests in air space over land or water, interests in airport hazards outside the boundaries of the airports and such other airport protection privileges, together with rights of ingress and egress thereto and therefrom, as are necessary to insure safe approaches to the landing areas of said airports and the safe and efficient operation thereof. The bureau is authorized to acquire, in the same manner, the right or easement, for a term of years or perpetually, to place or maintain suitable marks for the daytime marking and suitable lights or marks for the night marking of airport hazards, including the right of ingress and egress to and from such airport hazards for the purpose of maintaining and repairing such lights and marks.

(2) The secretary may, by order, authorize any airport board or governmental unit to condemn and acquire, with the full power of the commonwealth, in the [same] manner [as is] provided *in the Eminent Domain Act of Kentucky* [for the acquisition of property for airport purposes by such board, or governmental unit], any of the interests, easements, airport protection privileges, interests in air space, rights, or hazard marking privileges described in subsection (1), or any real or personal property. Any condemnation proceeding which may be necessary for such acquisition, if filed under this subsection, shall be filed in the name of the commonwealth on relation of the commissioner of aeronautics, and of the airport board or governmental unit making such acquisition.

(3) The authority granted in subsections (1) and (2) shall not be so construed as to limit the right, power, or authority of the state or any municipality or governmental unit to zone property adjacent to any airport pursuant to any law of this state.

Section 86. KRS 183.133 is amended to read as follows:

(1) The purpose of the board shall be to establish, maintain, operate, and expand necessary, desirable or appropriate airport and air navigation facilities. It shall have the duty and such powers as may be necessary, or desirable to promote and develop aviation, including air transportation, airports and air navigation facilities.

(2) The board shall establish and fix reasonable rates, charges and fees for the use of the landing area, ramps and other common aviation facilities. In fixing such rates, charges or fees the board may take into consideration, among other factors, the total capital investment by the board or other local or state governmental authority, the revenue needed properly to maintain such facilities, the revenue needed properly to expand the airport and its facilities, the portion of the facilities utilized by the licensee or contracting party and its customers and the volume and type of business conducted. Any party aggrieved by the rates, charges or fees may appeal from the action of the board to the circuit court of the county within which the board operates, within ninety (90) days from the date that the board finally publishes such rates, charges or fees and gives notice of same to the contracting party or licensee. The circuit court may hear evidence and determine whether or not the rates, charges or fees are, or are not, reasonable in amount. Appeal from the judgment of the circuit court may be prosecuted as any other civil appeal.

(3) The board shall likewise have power, from time to time, to fix rates, charges or fees by contract, or by publishing general rates, charges or fees for commercial vendors, concessionaires or other persons for the use or occupancy of terminal or other ground use facilities, under such terms or conditions as it may deem to be in the best interest of maintaining, operating or expanding necessary airport or air navigation facilities, and the public use thereof.

(4) The board may acquire by contract, lease, purchase, gift, condemnation or otherwise any real or personal property, or rights therein, necessary, for establishing, operating or expanding airports and air navigation facilities. The board may erect, equip, operate and maintain on such property, buildings and equipment necessary, desirable or appropriate for airport or air navigation facilities. The board may dispose of any real or personal property, or rights therein, which, in the opinion of the board are no longer needed for operating or expanding the airport or air navigation facilities.

(5) The board or any other governmental unit may by resolution reciting that the property is needed for airport or air navigation purposes direct the condemnation of any property, including navigation or other easements. The procedure for condemnation shall conform to the procedures set out in *the Eminent Domain Act of Kentucky* [KRS 416.120, or in the alternative, as nearly as practicable to KRS 177.081 to 177.089].

(6) The board or any other governmental unit may from time to time make, adopt and enforce such rules, regulations and ordinances as it may find necessary, desirable or appropriate for carrying into effect the purposes of this chapter, including those relating to the operation and control of the airport, airport facilities or air navigation facilities owned or operated by such board or such other governmental unit. All rules, regulations and ordinances adopted pursuant to this section shall be published according to the provisions of KRS 424.130, and the board or other governmental unit adopting them shall keep a permanent record of such rules, regulations and ordinances available for public inspection, on the airport premises. Prosecution for a violation of any rule, regulation or ordinance adopted pursuant to this section shall be in the police court of any municipality or the county court of any county within which the airport is located.

Section 87. KRS 183.490 is amended to read as follows:

The department, with the consent of the owner of a private airport, may, by resolution, reciting that any lands or property adjoining an airport are needed for purposes of establishing or expanding the airport and related facilities, direct the condemnation of such property. Whereupon, condemnation proceedings shall be conducted in the name of the department at the expense of the person owning or operating said airport, and the procedure for condemnation shall conform to the procedure set out in *the Eminent Domain Act of Kentucky* [KRS 416.120]. The department shall have no liability for the results of such proceedings, and all costs, damages and compensation awarded shall be paid by the owners or operators of such airport. Title shall vest in the person owning the airport. Such airport shall be a public use airport.

Section 88. KRS 196.140 is amended to read as follows:

When it is necessary for the department to own real estate for its use and it is unable to acquire such property by purchase, the department may condemn the real estate for its use and purposes in the manner set forth in *the Eminent Domain Act of Kentucky* [KRS 416.010 to 416.080].

Section 89. KRS 201.070 is amended to read as follows:

Whenever the board finds that property anywhere within the county is needed for any of the purposes contemplated in this chapter, the board may, by resolution reciting such need, order the condemnation of such property. Proceedings for condemnation shall be in the circuit court of the county, and shall be conducted in the name of the board by the city attorney of the city of the first class, who shall be the legal representative of the board, and the procedure shall be that set out in *the Eminent Domain Act of Kentucky* [KRS 416.120].

Section 90. KRS 212.590 is amended to read as follows:

The board shall have the power, by resolution reciting the need therefor and purpose thereof, to condemn real property located anywhere within such county. Eminent domain proceedings shall be [commenced in the circuit court of such county and shall be] conducted in the name of the board by the department of law of such city. The head of the department of law of such city or his assistant shall be the legal representative of the board in all matters and shall serve in that capacity without compensation from the board. In the exercise of its power of eminent domain, the board shall follow such proceedings as are *provided in the Eminent Domain Act of Kentucky* [in accord with the then existing law pertaining to the condemnation of real property for park purposes in cities of the first class in this commonwealth]. All property thus acquired by the board shall be held, used and controlled by it in the same manner as is all other property of the board.

Section 91. KRS 216.010 is amended to read as follows:

Any county containing a city of the second, third, fourth or fifth class may, through its fiscal court, establish and erect a hospital for the use of its citizens, and for that purpose the fiscal court may acquire by gift, purchase, lease or condemnation any land or property situated wholly in the county where the hospital is to be located, or any interest, franchise, easement, right or privilege therein that may be required for the purpose of constructing, furnishing, maintaining or operating the hospital. The method of condemnation of property shall be *as provided in the Eminent Domain Act of Kentucky* [the same as that provided for the condemnation of property for public purposes].

Section 92. KRS 216.805 is amended to read as follows:

The authority may:

(1) Acquire, construct, reconstruct, maintain, repair, operate, and regulate, health projects including appropriately designed housing for elderly citizens at such locations within the commonwealth of Kentucky, as may be determined by the authority;

(2) Acquire any interests in real property pursuant to the condemnation procedures of *the Eminent Domain Act of Kentucky* [KRS chapter 416 or KRS 177.081 to 177.089];

(3) Notwithstanding KRS chapter 56, the authority may issue revenue bonds payable solely from the charges, revenues, rentals, and other funds pledged for their payment, for the purpose of paying all or any part of the cost of any project or for the acquisition of property;

(4) Sell any building, structure, facility, or any interests in land to the commonwealth of Kentucky, the federal, city, or county government, or any person or corporation;

(5) Lease any interest in real property, any building, facility, or structure to the commonwealth of Kentucky, the federal, city, or county government or to any person or corporation;

(6) Fix and revise from time to time the charges and rent payments which will be paid by the different lessees for the use of the land, buildings and parking facilities;

(7) Combine for financing purposes any two (2) or more projects;

(8) Establish and enforce rules, specifications, and regulations for the construction and use of any project, except during any period when such powers are assigned to a lessee pursuant to a lease agreement;

(9) Notwithstanding KRS chapter 56, to acquire and hold in the name of the authority real and personal property in the exercise of its powers and the performance of its functions and duties under KRS 216.800 to 216.853, and to dispose of these interests in property;

(10) Make and enter into such contracts and agreements with the commonwealth of Kentucky or any federal, city, or county government or other person or corporation as may be necessary or incidental to the effectiveness of a project;

(11) Employ consulting engineers, attorneys, accountants, construction and financial experts, superintendents, managers, and such other employes and agents as may be necessary in the judgment of the authority, and to fix their compensation;

(12) Receive and accept from the commonwealth, the department, any federal agency, and the city or county, grants for or in aid of the construction of any project, and receive and accept aid or contributions from any source of either money, property, labor or other things of value, to be held, used and applied for the purposes for which such grants and contributions may be made; and

(13) Do all acts necessary and proper to carry out the powers expressly granted in KRS 216.800 to 216.853.

Section 93. KRS 220.310 is amended to read as follows:

The board of directors may, by resolution reciting the need, order the condemnation for the district of any real property or interest therein that may, in the opinion of the board, be necessary for the proposed construction of any structure authorized by KRS 220.010 to 220.520, and any property taken for a public use may again be taken by the district if necessary. Proceedings for condemnation shall be conducted in the manner prescribed in *the Eminent Domain Act of Kentucky* [KRS 416.010 to 416.080]. No payment or award in any condemnation proceedings or for the cost or expense of such proceedings shall be made except from the funds provided under the authority of KRS 220.010 to 220.520.

Section 94. KRS 224.130 is amended to read as follows:

Any corporation authorized to do business in this state and organized for the purpose of constructing, maintaining and operating sewer lines and sewage treatment facilities may, if it is unable to contract or agree with the owner after a good faith effort to do so, condemn rights-of-way necessary for constructing, maintaining and operating its pipelines and, if necessary, pumping stations; and the necessary ingress and egress to examine, alter, repair and maintain such pipelines. The condemnation proceedings shall be conducted in the manner provided in *the Eminent Domain Act of Kentucky* [KRS 416.230 to 416.310]. Provided, however, That before any corporation shall be authorized to use the provisions of this section, it shall have presented plans and specifications to the department of environmental protection and received from said department a permit to operate and maintain said sewage treatment facilities together with an approval of the discharge of the treated effluent from said facilities to a specific point of the waters of this commonwealth. Provided further That any person wishing to object to a pipeline or plant location subject to the provisions of this section shall have the right to have his objections heard by said department pursuant to the provisions of KRS 224.083.

Section 95. KRS 224A.070 is amended to read as follows:

The authority is expressly empowered to carry out and perform the following essential governmental functions of statewide import and concern:

(1) To adopt comprehensive rules, regulations and bylaws for the regulation of its affairs and the conduct of its business, which may define with specificity conditions precedent under which applications for state grants may be made and the order of priority upon which applications shall be acted upon;

(2) To retain an executive director, who shall be experienced and knowledgeable in the fields in which said authority is empowered to act, together with such other employes as shall be necessary and appropriate to enable the authority to fulfill its duties, functions and responsibilities;

(3) To adopt a corporate seal;

(4) To sue and be sued in its own name and to have the right, power, and authority to enforce its obligations and covenants made pursuant to the provisions of this chapter;

(5) To levy a tax on every purchase of water service in the Commonwealth of Kentucky, such tax to be equal to not more than two per cent (2%) of the gross amount of the bill for water services rendered;

(6) To approve or reject applications made to the authority for state grants;

(7) To make state grants to any governmental agency for the purpose of assisting such governmental agency in the construction of eligible projects. All such state grants shall be payable to the governmental agency in accordance with the terms and conditions of an assistance agreement by and between the authority and such governmental agency, which shall include the provisions and conditions specified in KRS 224A.100, and such other reasonable terms and conditions as the authority shall determine;

(8) Without reference to the provisions of KRS Chapter 56, to acquire and hold in the name of the authority, by the exercise of the power of eminent domain pursuant to *the Eminent Domain Act of Kentucky* [all authority specified in KRS 416.115], such real property or rights therein, including rights-of-way, easements and licenses, and such personal property as may be reasonably deemed necessary in order to effectuate the development, implementation, financing, and construction of any eligible project, and to make such properties available to governmental agencies in connection with eligible projects;

(9) To receive service charges from governmental agencies which have entered into assistance agreements with the authority, in accordance with the terms and conditions of such assistance agreements, and to use and employ such service charges in accordance with the provisions of this chapter, such service charges to constitute authority revenues;

(10) To enforce assistance agreements made and entered into with governmental agencies by suit, action, mandamus or other proceedings, including the obtaining by judicial decree of the appointment of a receiver to administer eligible projects partially financed by state grants which have been undertaken by governmental agencies;

(11) To have, possess and exercise all other powers reasonably incident to the carrying out of the duties and responsibilities of the authority.

Section 96. KRS 247.140 is amended to read as follows:

(1) The state fair board:

(a) Shall have the custody and control of such property as now is under its custody and control, and of such property as may hereafter be placed under its control or transferred to it by the state property and buildings commission, for any purposes mentioned in this section and the physical properties so under its custody and control or transferred to it are hereinafter referred to in this section, and in KRS 247.150 and 247.160, as the "state fair grounds and an area in a city of the first class to be used as an exhibition center."

(b) May erect and repair buildings on the state fair grounds and exhibition center, make any and all necessary or proper improvements, and generally carry on a program of development and extension of facilities designed to accomplish the objects defined in this section.

(c) Shall promote the progress of the state and stimulate public interest in the advantages and development of the state by providing the facilities of the state fair grounds for agricultural and industrial exhibitions, public gatherings, cultural activities, and other functions calculated to advance the educational, physical and cultural interests of the public and by providing the facilities of the exhibition center for conventions, trade shows, public gatherings and other functions calculated to advance and enhance the visitor industry, economy, entertainment, cultural and educational interests of the public.

(d) May hold an annual fair on the state fair grounds, for the exhibition of agricultural, mechanical, horticultural, dairy, forestry, poultry, livestock, mineral, and all other industrial interests of the state, and prepare premium lists and establish rules of exhibition for the fair.

(2) The state fair board may take, acquire and hold property, and all interest therein, by deed, gift, devise, bequest, lease, or eminent domain, or by transfer from the state property and buildings commission, and may dispose of any property so acquired in the manner provided by law. In the exercise of its power of eminent domain it *shall* [may] proceed in the manner provided in *the Eminent Domain Act of Kentucky* [KRS 416.115 or in the manner provided in KRS 416.120].

Section 97. KRS 249.580 is amended to read as follows:

The board of supervisors shall constitute a public body corporate with perpetual succession and power in its name to:

(1) Contract and be contracted with, sue and be sued, adopt bylaws and have and use a corporate seal.

(2) Levy ad valorem taxes upon all the taxable property within the district as provided in KRS 249.610.

(3) Take measures necessary and proper for the control of all species of mosquitoes and other arthropods of public health importance by providing for the construction and maintenance of impoundments of canals, ditches, drains, dikes, fills and other necessary works, installing and maintaining pumps, excavators, and other machinery and equipment, and employing larvicides and other control materials meeting the standards established by the department.

(4) Acquire by purchase, gift, grant, bequest, devise, or through condemnation proceedings in the manner provided in *the Eminent Domain Act of Kentucky* [KRS 416.010 to 416.080], such lands or rights of way as are necessary for the exercise of the authorized functions of the district.

(5) Hold, lease and convey real estate and personal property deemed necessary and proper to carry out the purposes of the mosquito control law.

(6) Employ a district superintendent who is an engineer, entomologist, or otherwise qualified as an arthropod control specialist, and other personnel required in performance of the authorized functions of the district.

(7) Borrow money in anticipation of revenue receipts to meet the current expenses of the district. Such current borrowing shall not exceed seventy-five per cent (75%) of the unrealized and unencumbered revenue estimated in the budget to be derived from the tax levy for the then current fiscal year.

(8) Conduct arthropod control measures in cooperation or by contract with individuals, firms, corporations, and federal, state and local governmental agencies.

Section 98. KRS 262.745 is amended to read as follows:

Subject to the approval of the board of supervisors, the board of directors of a watershed conservancy district shall have power to:

(1) Levy an annual tax on the real property within the district within the limitations provided in KRS 262.760 for administration, construction, operation and maintenance of works of improvement within the district.

(2) Acquire by purchase, gift, grant, bequest, devise, or through condemnation proceedings in the manner provided in *the Eminent Domain Act of Kentucky* [KRS 104.170], the fee simple title or any lesser interest in land including easements and flowage rights as are necessary for the exercise of any authorized function of the district, and for such purpose, may cause examinations and surveys to be made of any lands, easements or rights of way necessary for the performance of any authorized function of the district.

(3) Construct, improve, operate and maintain such structures as may be necessary for the performance of any function authorized by KRS 262.700 to 262.795.

(4) Borrow such money as is necessary for the purpose of acquiring lands or rights of way and establishing, constructing, reconstructing, repairing, enlarging and maintaining such structures and improvements as are required by the district in the performance of its functions, and issue, negotiate and sell its bonds as provided in KRS 262.750.

Section 99. KRS 266.130 is amended to read as follows:

The board of levee commissioners may enter upon, acquire, take and hold any lands or premises necessary and proper for locating, constructing, reconstructing, enlarging, extending, repairing and maintaining its line of levees, as well as for the cutting of ditches for the purpose of relieving the levees and the lands adjacent thereto enlarged by sipe and rain water. The board may also cut and remove trees, timbers and other materials that may, by falling or otherwise, encumber or endanger any levee. In case the owners cannot agree with the board as to the value of any property taken under authority of this section, the board may condemn the property in the manner provided in *the Eminent Domain Act of Kentucky* [KRS 416.010 to 416.080].

Section 100. KRS 267.280 is amended to read as follows:

If it is necessary to acquire a right of way or any outlet over or through lands not affected by the drainage, and the same cannot be acquired by purchase, the same may be condemned by the board. The owners of the land sought to be condemned shall be made parties to the proceeding, and the procedure shall be substantially as provided in *the Eminent Domain Act of Kentucky* [KRS 416.010 to 416.080]. The damages awarded shall be paid by the board out of the first funds available, before the land is taken, injured or destroyed, unless the party entitled thereto waives payment in advance.

Section 101. KRS 267.450 is amended to read as follows:

The owner of any land that has been assessed for the cost of any improvement may use the improvement as an outlet for lateral drains from his land. If the land is separated from the improvement by the land of another, and the owners are unable to agree as to the terms on which the one may enter the land of the other and construct the drain or ditch, he may file his ancillary petition in the pending proceeding, and have the same condemned in the same manner as provided in *the Eminent Domain Act of Kentucky* [KRS 416.010 to 416.080]. When the ditch is constructed it shall become a part of the drainage system and be under the control of, and kept in repair by, the board.

Section 102. KRS 268.280 is amended to read as follows:

(1) When the report of the appraisers is filed in the office of the clerk of the court, if it shows that any property is going to be taken, damaged or affected, the owner of which has not been brought into court by notice on the organization of the district, the clerk shall embrace the name of such owner and a description of the property in the notice to them given by him and in the public notice, that the report of the appraisers has been filed, and set a hearing on a day certain during the next succeeding term of court, which does not convene within less than ten (10) days from the day on which the report was filed in his office.

(2) The public notice given by the clerk shall be substantially as follows:

"Commonwealth of Kentucky.

"In re drainage district No. .... court of .... County (or of .... Counties), Kentucky.

"Notice is hereby given to all owners of property in (drainage), (levee), (reclamation) district known as (insert name of district), the boundaries of which district are as follows: (here insert boundary description and also a separate description of any property added by the appraisers, together with the name of the owner), and to all persons whose property may be affected, that the board of appraisers has filed in the office of the clerk of this court its report in which it states and shows the benefits, damages and the assessments of benefits made upon all property in the district, the classification thereof and an appraisal of the value of the property necessary to be taken or used, or which will be affected by the making of the improvement. This proceeding is set for hearing on the .... day of ...., 19.., being the .... day of the next .... term of court. The report is on file in my office and subject to inspection by any person. Any person desiring to file exceptions thereto, must do so on or before the .... day of ...., 19.., being the first day of the .... term of court. Your failure to file exceptions to the report by that date will be construed by the court that you have no reasons to offer why it should not be confirmed.

"Done by me as clerk of the .... court on this the .... day of ...., 19...

.... Clerk."

(3) The clerk shall post a copy of the above notice at the front door of the courthouse of the county where the proceeding is pending, within five (5) days after the report is filed in his office, and shall cause it to be published pursuant to KRS chapter 424. One (1) copy of each issue of each newspaper containing the notice

shall be filed by the clerk as a part of the record in the proceeding. On the first day of the term of court at which the report stands for hearing and trial, the clerk shall file in open court his certificate showing that he has published the notice as required. He shall sign the certificate officially and make it a part of the files of the proceedings. He shall make and attach a copy of his certificate to each duplicate copy of the report of the appraisers on file in his office.

(4) Owners shall have until and including the first day of the term of court at which the report is set for a hearing to file exceptions to it. All exceptions shall be heard and tried by the court on the day the proceeding is set for hearing pursuant to the preceding notice, unless further time be required. The trial of exceptions shall be by the court, except in cases where land is to be condemned, in which case it shall be by a jury as provided in *the Eminent Domain Act of Kentucky* [KRS 416.010 to 416.080].

Section 103. KRS 268.290 is amended to read as follows:

(1) If any exceptions are filed to the report of the appraisers, the board may effect an agreement with the person filing exceptions but no agreement shall become binding until approved by the court. If no agreement is effected, a trial shall be had upon the exceptions.

(2) A trial shall first be had on the exceptions to the assessment of damages, which shall, if demanded, be by jury, as provided by *the Eminent Domain Act of Kentucky* [KRS 416.010 to 416.080], and shall be governed in all respects by the same rules as therein provided. This shall apply to the damages assessed to the owners of land taken for rights of way, whether the lands or other property be within or without the (drainage), (levee), (reclamation) district. If it is necessary to acquire any right of way or outlet through any land not embraced in the district, it may be acquired in the same proceeding, and the value of the land to be taken and the damage to the adjacent lands used shall be determined in the same proceeding. All damages awarded either for land inside or outside of the district, or for lands actually taken, shall be paid by the board out of the first funds available for that purpose, and the board shall either pay in cash or make provisions for the payment thereof and secure the payment to the owner before the land is taken or damaged, unless the owner waives payment in advance. The trial of the exceptions to the damages assessed shall be completed before any hearing or trial is had upon any of the exceptions to the assessment of benefits or classification of property in the district.

(3) When the hearing is completed on the exceptions to the assessment of damages, the court shall hear and determine all exceptions to the assessment of benefits and classification of lands, which shall be heard by the court in a summary manner. The courts shall determine the correctness of the classification and assessment of benefits to each piece of property involved, when any exceptions have been filed to the report of the appraisers. The report of the appraisers shall be prima facie evidence of the fact that their findings are correct in all respects.

(4) If it appears to the court, after having heard and determined all exceptions, that the estimated cost of the construction of the proposed improvement contemplated in the plan of reclamation is less than the benefits properly assessed against the property, the court shall then approve and confirm the report of the appraisers as to the classification and assessment of benefits as amended or modified by the court. The order of the court approving and confirming the report of the appraisers shall also contain the judgment of the court relating to the condemnation of property to be taken or damaged.

(5) If a majority of the owners at this time desire to abandon the proposed improvement, they may do so by showing that its cost exceeds the benefit accruing to the property in the district. If this is shown, the court shall dismiss the proceeding. After the report of the appraisers has been filed, if the owners of seventy-five per cent (75%) of the land in the district, or any part of it which is practically separated from the rest, file a petition in the court in which the proceeding is pending stating that they desire to abandon the proposed improvement, the court shall dismiss the proceeding at the cost of the landowners.

(6) Any person may appeal from the judgment of the court, either upon the question of classification or the assessment of benefits or damages. The appeal shall be prosecuted in the same manner and within the time provided for in KRS 268.020. No person shall be allowed to raise any question he did not raise in his exceptions to the report of the appraisers in the trial court. The appeal shall not in any way stay the proceedings or affect the classification or the assessment of benefits or damages to any property not directly involved in the appeal, or prevent the execution of the judgment, except that particular part from which the appeal is prosecuted. The judgment shall be construed as a several judgment as to each piece of property.

Section 104. KRS 268.510 is amended to read as follows:

(1) In order to effect the drainage, protection and reclamation of the land and other property in any district organized under this chapter subject to assessment, to protect cities from overflow, and to promote the public health or general welfare of the community, the board acting for the district may clean out, alter, construct or maintain any drain in or out of the district, and construct and maintain any levees, dikes, dams, revetments, reservoirs, holding basins, floodways, pumping stations, syphons and any other work and improvements deemed necessary to preserve and maintain the works or prevent overflow of land or protect

any city or parts thereof in or out of the district. The board may construct or enlarge any bridge needed in or out of the district across any drain or other improvement or any public highway, railroad right of way, track, grade, fill or cut, subject to the provisions of KRS 268.530; construct roadways upon, along and over levees and embankments; remove any fence, building or improvement in or out of the district.

(2) The board may hold, control and acquire by donation or purchase, or, if need be, condemn any land, easement, railroad right of way, sluice, conduit, sewer, holding basin or franchise in or out of the district for any purpose provided for in this chapter.

(a) The board may also condemn, in the manner provided in *the Eminent Domain Act of Kentucky* [KRS 416.010 to 416.080], for the use of the district any property within or without the district not acquired or condemned by the court on the report of the appraisers.

(3) The board may control all water power created by the construction of improvements in the district, and construct and maintain any hydroelectric power plants to develop such power for the use of the district and use any funds in the treasury of the district not otherwise appropriated for the construction and maintenance of such plants. The board may lease any power in excess of that required for the use of the district. The proceeds of such lease shall be turned into the treasury of the district.

(4) However, the construction or maintenance of any improvement shall not impair navigation upon any navigable stream in this state.

Section 105. KRS 268.570 is amended to read as follows:

Any owner may use the drain as an outlet for lateral ditches from his land. If his land is separated from the drain by the land of another and they are unable to agree as to the conditions on which one may enter another's land and construct the ditch, he may file his ancillary petition in the pending proceeding to the court, and secure condemnation as provided for in *the Eminent Domain Act of Kentucky* [KRS 416.010 to 416.080]. When the ditch is constructed, it shall become a part of the drainage system and shall be under the control of the board and kept in repair by it.

Section 106. KRS 269.070 is amended to read as follows:

Any county may remove any ponds, pools or swamp marshes, or reclaim swamp land that may cause sickness in the county, by ditching, leveeing or cleaning out logs and brush that may cause any creek to scatter or form pools of stagnant water. The cost shall be paid for out of the county levy or by taxation of the property in the county subject to taxation for state purposes. When the fiscal court undertakes such a project it may acquire for the county by contract or condemnation any land necessary to carry out the project. If condemnation proceedings are necessary, they shall be conducted in the manner provided in *the Eminent Domain Act of Kentucky* [KRS 416.010 to 416.080].

Section 107. KRS 269.210 is amended to read as follows:

The corporation may extend its ditches, make other ditches, connect with any creek or stream and straighten or cut across any curve to facilitate drainage, and, when necessary, take the lands of private persons. The corporation is vested with the right and power of eminent domain for the condemnation of land that may be necessary, which remedy shall be pursued as provided by *the Eminent Domain Act of Kentucky* [KRS 416.100 or 416.110], the proceedings to be brought by the corporation in the county court, providing due compensation to the owners of land.

Section 108. KRS 269.270 is amended to read as follows:

(1) The county court in each county of this commonwealth, wherein the fiscal court has requested it, is hereby authorized to establish a county-wide surface water drainage district for the entire county including all municipalities. The cost of procuring the necessary rights of way and the construction and maintenance of such county-wide drainage district shall be paid by the fiscal court out of the annual levy for county taxes. When the fiscal court undertakes such a project it may acquire for the county by contract or condemnation any land necessary to carry out the project. If condemnation proceedings are necessary they shall be conducted in the manner provided in *the Eminent Domain Act of Kentucky* [KRS 416.010 to 416.080].

(2) The administration of this district shall be exclusively by or within the fiscal court of said county, and the fiscal court is hereby authorized and empowered to employ such assistants, including commissioners or superintendent, and other employes as may be necessary for the construction, maintenance and continued operation of said system, and shall fix the salaries of all employes to be paid as other county employes are paid.

(3) In the construction and maintenance of such drainage system the fiscal court is authorized and empowered, as a part of the cost of construction and maintenance of said system, to build or construct such bridges and culverts over and across the ditches or canals of this system as in the opinion of the fiscal court are necessary.

(4) Nothing herein contained shall authorize or empower the construction or maintenance of a sanitary sewer system or sanitary sewers.

Section 109. KRS 277.040 is amended to read as follows:

Any person operating a mine or a stone quarry [within three (3) miles of any railroad or navigable stream] may, for the purpose of transporting material between *any* [the] railroad or *navigable* stream and the mine or quarry, construct and operate a line of railroad, truck road, overhead conveyor, or pipeline from the mine or quarry to the most convenient and accessible point on the railroad or stream, and may, under *the Eminent Domain Act of Kentucky* [KRS 416.010 to 416.080], condemn the land necessary for track, truck road, or supports for conveyor, or pipeline, not exceeding *sixty (60)* [fifty (50)] feet in width for each track, roadway, conveyor, or pipeline necessarily constructed, and the land for necessary buildings at the railroad or stream, not exceeding two (2) acres. The owner or operator of such railroad shall be governed by the laws relating to other railroads, so far as applicable, and shall have the same rights and privileges granted to corporations owning and operating railroads.

Section 110. KRS 277.050 is amended to read as follows:

Any corporation organized under the laws of this or any other state for the purpose of constructing, maintaining or operating union railway stations for passengers or freight may, except in cities of the first class, acquire by condemnation, in the manner prescribed by *the Eminent Domain Act of Kentucky* [KRS 416.010 to 416.080], such lands and material in this state as it deems to be reasonably necessary for the purpose of constructing, maintaining and operating such union railway stations and the usual or proper tracks, platforms, sheds, approaches and other appurtenances thereto.

Section 111. KRS 277.060 is amended to read as follows:

(1) Every railroad company may:

(a) Cause such examinations and surveys to be made as are necessary to the selection of the most advantageous route for its proposed railroad, and for that purpose its officers, agents and servants may enter upon the property of any person, subject to liability for all damage done by them to such property.

(b) Receive, hold and take possession of any voluntary grants and donations of property made to it to aid in the construction, maintenance and operation of the road; any real property so received shall be held and used for the purposes of the grant or donation only.

(c) Purchase, hold, take possession of and use all franchises and property necessary for the construction, maintenance and accommodation of its line of railroads, but the same shall not be taken or appropriated without the consent of the owner until the compensation to be made therefor is agreed upon or ascertained, and paid or deposited, as provided by *the Eminent Domain Act of Kentucky* [KRS 416.010 to 416.080].

(d) Lay out and construct its road not exceeding one hundred (100) feet in width, unless more than one track is laid, in which case the width may be extended not exceeding fifty (50) feet for each additional track.

(e) Take, in the manner provided by *the Eminent Domain Act of Kentucky* [KRS 416.010 to 416.080] such lands in the vicinity of or adjacent to its road as are necessary for cuts or embankments, the procurement of stone, gravel or other materials, or for draining the roadbed.

(f) Change, when it deems proper, the gauge of its road.

(g) Change the location or grade of any portion of its road for any reasonable cause, but shall not, except as otherwise provided by law, depart from the general route prescribed in the articles of incorporation.

(h) Construct its road upon or across any private road, highway, street, lane or alley, and across any railroad, canal or watercourse.

(2) Every railroad company shall restore to its former condition, as near as may be, any private road, highway, street, lane, alley, railroad, canal or watercourse upon or across which it has constructed its road, and shall maintain the same in that condition within the right of way of the railroad company. It shall construct suitable road and street crossings for the passage of traffic by putting down planks or other suitable material between and on each side of the rails, the top of which shall be at least as high as the top of the rails.

(3) If the railroad is constructed upon any public street or alley, the construction shall be upon such terms and conditions as are agreed upon between the company and the authorities of the city, and the road shall not be constructed until compensation is made, either by agreement or in the manner provided by *the Eminent Domain Act of Kentucky* [KRS 416.010 to 416.080], to the owners of the property adjoining those parts of the street or alley on which the road is to be constructed.

(4) Any railroad company may build such spurs, switches, tracks or branches as are necessary to conduct its business or develop business along its line of road, and for that purpose shall have the same powers and be subject to the same restrictions and liabilities as are conferred or imposed upon it for the construction of its main line.

Section 112. KRS 278.502 is amended to read as follows:

Any corporation or partnership organized for the purpose of, and any individual engaged in or proposing to engage in, constructing, maintaining or operating oil or gas wells or pipelines for transporting or delivering oil or gas in public service may, if it is unable to contract or agree with the owner after a good faith effort to do so, condemn the lands and material or the use and occupation of the lands that are necessary for constructing, maintaining, drilling, utilizing and operating pipelines, underground oil or gas storage fields and wells giving access thereto and all necessary machinery, equipment, pumping stations, appliances and fixtures, including tanks and telephone lines, and other communication facilities, for use in connection therewith, and the necessary rights of ingress and egress to construct, examine, alter, repair, maintain, operate or remove such pipelines or underground gas storage fields, to drill new wells and utilize existing wells in connection therewith, and remove pipe, casing, equipment and other facilities relating to such underground storage fields and access wells. The proceedings for condemnation shall be as provided in *the Eminent Domain Act of Kentucky* [KRS 416.010 to 416.080 or as provided in KRS 416.230 to 416.310].

Section 113. KRS 278.540 is amended to read as follows:

(1) Any telephone company or telegraph company authorized to do business in this state shall, upon making just compensation, have the right to construct, maintain and operate its lines through any public lands of this state and on, across and along any public road, and across and under any navigable waters, but not in such a manner as to interfere with travel on the road or to obstruct the navigation of the waters.

(2) Any telephone company authorized to do business in this state may, by contract with any person, construct, maintain and operate telephone lines on and across the real property of that person, and if it cannot obtain the right of way by contract it may, except as provided in KRS 416.090, condemn the right of way in the manner provided in *the Eminent Domain Act of Kentucky* [KRS 416.150 to 416.200].

(3) Any telegraph company authorized to do business in this state that desires to construct, operate and maintain its lines on or along the right of way and structure of any railroad may, through an authorized agent, contract with the railroad company for that right.

(4) The parts of this section relating to the rights of telephone companies do not apply to any city.

Section 114. KRS 279.110 is amended to read as follows:

Any corporation created under this chapter may:

(1) Acquire and hold any property necessary or incidental to the proper conduct of its business, including preferred stock and common stock or other corporations whether formed under this chapter or not, and the stock of any federal agency, and may pay for any such property in cash, property or on credit, or both, and secure and procure payment of all or any part of the purchase price thereof on such terms and conditions as its board of directors determines.

(2) Acquire, own, operate, maintain and improve one or more systems.

(3) Pledge all or part of its revenue or mortgage or encumber all or any part of its property for the purpose of securing the payment of the principal and interest of any of its obligations.

(4) Have and exercise the right of eminent domain in the manner provided in *the Eminent Domain Act of Kentucky* [KRS 416.010 to 416.080 or in the manner provided in KRS 416.230 to 416.300 as the corporation may elect].

(5) Construct, own, lease, operate and control any facilities across, along or under any street or public highway, and over any lands belonging to this state or to any county, city or political subdivision of this state, but shall restore any such street or highway to its former condition as nearly as possible and shall not use it in such a manner as to impair unnecessarily its usefulness.

(6) Accept gifts and grants of money or property from this state, any county, city or political subdivision of this state, any federal agency, or any other person, and accept voluntary and uncompensated services.

(7) Make any contract necessary or convenient for the full exercise of the powers granted by this chapter, or for any other corporate purpose, subject to any limitations imposed by this chapter.

(8) Sell, lease or dispose of all or any part of its property, subject to the provisions of KRS 279.140.

(9) Contract debts, borrow money without limitation as to the amount of corporate indebtedness or liability, and issue or assume obligations.

(10) Fix and collect reasonable rates and charges for services, subject to the provisions of KRS Chapter 278.

(11) Assist its members in wiring their premises for the use of electric energy and in purchasing electrical equipment, appliances and supplies, and in financing such activities.

(12) Do anything not specifically set forth in this section that is reasonably deemed necessary, proper or convenient for the accomplishment of the purposes of the corporation and is not prohibited by law.

Section 115. KRS 280.210 is amended to read as follows:

(1) If any applicant for a ferry privilege owns or has the right to use the land proposed as the site of the ferry only on one (1) side of the stream, and the landing on the opposite side is not at an established public highway, the *applicant may, pursuant to the Eminent Domain Act of Kentucky, condemn* [court, before granting the ferry privilege, shall issue a writ of ad quod damnum to ascertain the damage the owner of the land on the opposite side will sustain by establishing over his land] the necessary right of way, *not* [nor] more than forty (40) feet wide, for the use of the ferry. [The owner of the land on the opposite side must first be given reasonable notice of the intended application for the writ. If the court does not approve the assessment when returned, it shall issue a new writ. If the court approves the assessment, it shall, upon payment of the amount assessed into court for the benefit of the owner, condemn the right of way for the public use as a highway. If the land over which the right of way is sought is in another county, the writ of ad quod damnum shall be directed to the sheriff of that county.]

(2) Any person having an established ferry on any river in this state may have condemned, for a period of twenty (20) years or permanently, at his option, not more than one-half (1/2) acre of land adjacent to the ferry for any purpose necessary for the use of the ferry *pursuant to the Eminent Domain Act of Kentucky.* [Such person shall, after giving ten (10) days' notice to the owner of the land, apply to and obtain from the county court in which the land is situated a writ of ad quod damnum to ascertain the damages to the owner of the land. The writ may include the right to cut and remove any timber or other obstructions on the bank of the river, so as to clear them out of the way of the ferry. The writ shall be directed to the sheriff of the county, who shall proceed to execute it in the manner provided by subsection (1) of this section. The person having the land condemned shall acquire no right in it until the damages assessed and the costs of the proceedings are paid, and when they have been paid the sheriff shall convey the land so condemned to the applicant.]

Section 116. KRS 280.230 is amended to read as follows:

If no owner of the land on either side of the stream over which a public highway passes will obtain the ferry privilege, or if such an owner, after obtaining the privilege, abandons it or fails to keep it up according to law, the county court may, after reasonable notice, grant the privilege to another. When it is necessary to the proper exercise of the privilege by such grantee, the court may cause to be condemned permanently, or for not more than twenty (20) years, at the option of the owner of the privilege, not more than two (2) acres of ground adjoining the landing, together with the use, for ferry purposes, of any adjacent uninclosed bank of the stream. *Condemnation shall be pursuant to the Eminent Domain Act of Kentucky.* [Before the final grant of the property and the use of the bank, the damage to the owner of the land shall be ascertained under a writ of ad quod damnum, and the amount thereof paid into court for the use of the owner.]

Section 117. KRS 350.152 is amended to read as follows:

(1) The commonwealth, acting by and through its department of environmental protection, shall have the power to acquire, either by negotiation or by exercise of the power of eminent domain, land which has been affected or disturbed by strip or auger mining, which consists of orphan banks or unreclaimed spoil piles.

(2) Prior to acquiring any land pursuant to KRS 350.152 to 350.163 and 350.240, the department of environmental protection shall extend to the owners thereof an opportunity to backfill, grade, plant and do other acts of restoration thereon to the same extent and within the same time limits as prescribed by KRS chapter 350 and regulations adopted pursuant thereto. If the owner or owners agree in writing to perform such restoration and, weather permitting, start such restoration within a period of thirty (30) days, the land shall not be acquired by the commonwealth.

(3) The department of environmental protection shall attempt to purchase any land which it has determined should be acquired for the purpose of restoration and which the owners have not agreed to restore as provided in subsection (2) above. In any case where the department and the owners of the land are unable to agree upon the amount to be paid for the land, the department may exercise the power of eminent domain against such land by filing a condemnation suit under *the* [any] procedure *of the Eminent Domain Act of Kentucky* [as provided in KRS chapter 416].

(4) The purchase price, in the case of a negotiated acquisition, or the damages as finally determined, in the case of acquisition by condemnation, and the necessary expenses incidental thereto, shall be paid from appropriations made by the general assembly for such purposes and appropriations to which federal funds made available for such purposes have been credited.

Section 118. KRS 381.660 is amended to read as follows:

When the owner or lessee of a salt, or other well or spring, or stream or body of water, desires to convey the water therefrom to a point more convenient by means of pipes underground, he may, if necessary, condemn the use of so much land of another as is needed for the purpose. The procedure for condemnation shall be that set forth in *the Eminent Domain Act of Kentucky* [KRS 416.010 to 416.080].

Section 119. KRS 416.010 is amended to read as follows:

When any company authorized to construct a railroad is unable to contract with the owner of any land or material necessary for its use for the purpose thereof, it shall *institute a condemnation action pursuant to the Eminent Domain Act of Kentucky* [file, in the office of the county clerk of the county in which the land or material is located, a particular description of the land or material sought to be condemned, and apply to the county court to appoint commissioners to assess the damages the owner thereof is entitled to receive].

Section 120. KRS 416.100 is amended to read as follows:

(1) When any county court desires to condemn land under the authority of KRS 178.110, the county court shall *proceed pursuant to the Eminent Domain Act of Kentucky.* [appoint three impartial housekeepers of the county as commissioners to assess the damages the owner or tenant may be entitled to receive. The commissioners shall be sworn to faithfully and impartially discharge their duties according to law.

(2) Either the county or any tenant or owner may file exceptions to the report of the commissioners. If exceptions are filed by either party, the court shall, unless the parties waive a jury, forthwith cause a jury to be impaneled to try the issues and to assess compensation and damages.]

Section 121. KRS 416.110 is amended to read as follows:

(1) When any fiscal court desires to condemn land under the authority of KRS 178.120, it shall adopt a resolution ordering the condemnation of the required land. The resolution shall set forth the facts contemplated by KRS 178.120, give a general description of the land, and the name of the owner if known, and shall direct the county attorney to institute the proceedings.

(2) The county attorney shall file the petition for condemnation in the county court in the name of the county, and shall attach to the petition as an exhibit a certified copy of the resolution of the fiscal court. The resolution shall be prima facie evidence of the public use and necessity for the condemnation. Thereafter the proceedings shall be as provided in *the Eminent Domain Act of Kentucky.* [KRS 416.020 to 416.080, with the following exceptions:

(a) The "value of the land," as used in KRS 416.020, shall be the market value thereof, including the value of any trees or shrubbery taken and the market replacement value of fencing similar to any taken, and in the commissioners' report each of these items shall be stated separately, in addition to stating separately the incidental damages to adjacent land.

(b) The trial on exceptions shall be held on a day fixed by the court, rather than forthwith.

(c) The jury shall not be sent to view the land until after all testimony has been submitted to it.

(d) If the county appeals to the circuit court, it need not file a supersedeas bond.

(e) On appeal to the circuit court, a certified copy of the judgment of the county court shall be filed in lieu of a transcript of the orders of the county court.

(f) If, an appeal by the owner, the award of damages is not increased, or if, an appeal by the county, the award of damages is reduced, the owner shall, in addition to paying the costs of the appeal, repay to the county any sum he has received in excess of the amount awarded to him by the circuit court, plus interest at six percent on the difference between the awards from the date of the county court judgment, whether or not he has received the same. If, on appeal by the owner, the award of damages is increased, or if, on appeal by the county, the award is not reduced, the county shall, in addition to the costs of the appeal, pay interest at the rate of six percent on the difference between the awards.

(g) The county shall be entitled to take possession of the land condemned and to use and control the land for the purpose for which it was condemned, as fully as if title had been conveyed to the county, upon paying to the owner the damages awarded by the commissioners' report, where the report is confirmed, or paying into court the damages awarded by the jury, together with all costs adjudged to the owner.

(3) This section and KRS 178.120 constitute an additional and alternative method for the institution and prosecution of condemnation proceedings to acquire right of ways for county roads, streets, alleys, ditches and bridges.]

Section 122. KRS 416.120 is amended to read as follows:

Proceedings for condemnation by the director of parks and recreation of cities of the first class as authorized by KRS 97.257 shall be in *accordance with the Eminent Domain Act of Kentucky.* [the circuit court, conducted in the name of the city by the director of law of such city, and shall be commenced by petition and summons, and carried on in a manner similar to actions at law, except that in proceedings against nonresident, absent and unknown defendants the city shall not be required to post bond as provided under CR 4.11. In any such actions the owners of distinct parts of any one general tract sought to be condemned may be included in one proceeding, or any one or more of such owners holding contiguous properties may be proceeded against in a separate action. Trial of such actions shall be by a jury summoned under order of court and consisting of twelve freeholders of such city or county, who shall be sworn to ascertain and determine fairly and impartially by their verdict the amount of compensation each and every owner shall be entitled to receive for his or her land or property described in the petition and sought to be condemned. The city shall have the burden of proving the value of the property to be condemned; and in assessing damages to the owner of the property it shall be competent for the jury to consider the benefits and advantages, if any, that to such owner will result from the proposed improvements, and to set off the same against such damages as the owner may have other than the value of the property actually condemned and taken by the city. Nonresidents, absent defendants, or unknown owners of property shall be proceeded against by warning order as in other civil actions. Any condemnation proceeding shall have precedence on the docket of the court and may be assigned for trial as soon as the parties are before the court. Upon return of the verdict of the jury, the court shall enter judgment vesting in such city the title to the property described and condemned, the said judgment to take effect upon the payment into the court by said city of the amount of money named in the verdict, and all taxed costs of the proceedings, and said city shall have sixty days within which to make said compensation and payment; provided, however, if payment be not made within such time, the said condemnation shall be deemed and treated as abandoned, and the verdict and judgment set aside, and the proceedings dismissed at the cost of said city, but without prejudice to any subsequent proceedings.]

Section 123. KRS 416.130 is amended to read as follows:

(1) Every corporation organized for the purpose of constructing, or empowered to construct, a dam in any stream in this state for the purpose of improving navigation or developing, distributing and selling water power or electricity, and every corporation authorized under the laws of this state to conduct the business of producing and supplying electricity for the purpose of light, heat or power, may cause examinations and surveys to be made for its proposed dams, reservoirs, ponds, locks, bridges, power stations, roads, conduits and transmission lines, as well as the land that may be overflowed by the erection of any dam or other structure, and for such purposes may, by its officers, agents or servants, enter from time to time upon any lands or waters for the purpose of making such surveys or examinations, subject to liability for actual damage done. Before entering upon any land for such purposes, the corporation shall deposit with the clerk of the county in which the property is located, a bond to the Commonwealth in a penal sum fixed by the county court at not more than double the last assessed valuation of the property to be surveyed or examined, conditioned to indemnify all persons for actual damages sustained on account of making any examination or survey. When the location of the dam or other structure, and the land that may be overflowed by the erection of the dam, is determined, the corporation shall cause a survey and map to be made of the land to be taken and entered upon, which map shall be signed by the president and secretary and filed in the office of the clerk of the county court of the county in which the land shown on the map is situated.

(2) When any such corporation cannot, by agreement with the owner, acquire the property rights, privileges or easements needed for any of the uses or purposes referred to in subsection (1) of this section, the corporation may condemn such property, property rights, privileges or easements [either] in the manner provided in *the Eminent Domain Act of Kentucky* [KRS 416.010 to 416.080, or in the manner provided by KRS 416.230 to 416.310. A corporation may elect to proceed under either of the aforesaid acts]. Any corporation constructing or maintaining such dam shall be liable for any damages resulting from overflowing any property, public or private.

Section 124. KRS 416.150 is amended to read as follows:

Any telephone company desiring to condemn a right of way under the authority of subsection (2) of KRS 278.540 *shall proceed pursuant to the Eminent Domain Act of Kentucky.* [may file its petition for condemnation, verified by its agent, in the office of the clerk of the county court of the county in which the right of way sought to be condemned is located. The petition shall designate the owner of the land and the particular right of way sought to be condemned, and shall state the name of the petitioner, where and how incorporated, in what manner and with what kind of material it proposes to construct its telephone line, and that it has complied with the Constitution and laws of this state in regard to such corporations seeking to exercise the right of eminent domain. An application in writing by an authorized agent of the telephone company, proposing to agree with the owner of the land upon the compensation to be paid and offering a sum certain for such right of way, not accepted in writing by the owner or someone duly authorized by him within ten days after delivery of the offer to him, may be treated as a failure to agree authorizing condemnation.]

Section 125. KRS 416.210 is amended to read as follows:

Any burial association or corporation may condemn land by first recording, in the county clerk's office of the county where the land lies, a resolution that it needs the land to furnish a burial site for the public. It may condemn a sufficient roadway to have access to the land, not wider than one hundred feet. It may also condemn enough land, not exceeding five acres, adjacent to any land used for a cemetery for a chapel site. If the building of any state highway requires a change in the entrance to any cemetery, the burial association or corporation may condemn any adjacent land, not wider than one hundred feet for the new entrance. The condemnation procedure shall be in the manner provided in *the Eminent Domain Act of Kentucky* [KRS 416.010 to 416.080]. This section shall not permit condemnation of more than forty acres at any one time.

Section 126. KRS 416.220 is amended to read as follows:

(1) The owner of real estate serving the public, providing sleeping accommodations and meals, when pure water is not available in adequate quantities, shall have the right to condemn on the banks of any navigable stream a tract of land not more than twenty feet square and above the high water mark for a pumping station site and a right-of-way for a pipe line from said site to the deep water of the navigable stream and from said pumping station site to the point on the owner's real estate where the water is desired for use. The said property owner may condemn a right-of-way for an electric power line over the most direct course to the pumping station site. In the event the owner of such real estate finds it more desirable to make connections with the water system of a municipality or a water supply line leading from a navigable stream to the municipality or other source of supply, then said real estate owner may, at his option, condemn a right-of-way for a pipe line from said city water system or water supply line or other source of supply to the point on the owner's real estate where the water is desired for use, including such area as may be required to install and maintain pumps and meters for said water system and an electric line to conduct power to said pump with necessary electric control lines or apparatus. The owner of property condemning right-of-way for a water line under this section, may agree to supply the subject owner a quantity of water in lieu of cash compensation for the easement, and such agreement to supply water to the subject property owner shall not be construed to place a burden on the condemning party to supply water service to others or meet the obligation of a public utility to render water service.

(2) The provisions of KRS 381.660, 381.670, and 381.680 shall be complied with except that when the pumping station site and pipe line are located on cliff land and do not cross any tillable land the pumps and pipe may be located above ground.

(3) The procedure for condemnation shall be that set forth in *the Eminent Domain Act of Kentucky* [KRS 416.010 to 416.080].

Section 127. KRS 416.230 is amended to read as follows:

A corporation, partnership or individual seeking to condemn lands and material or the use and occupation of lands, under the provisions of KRS 278.502, may file a verified petition in the office of the county court clerk of the county in which all or the greater portion of the land and material is located. The petition shall state that it is filed under the provisions of KRS 278.502 and *shall be conducted pursuant to the Eminent Domain Act of Kentucky* [KRS 416.230 to 416.310 and shall contain, in substance:

(1) Allegations sufficient to show that petitioner is entitled, under the provisions of KRS 278.502, to condemn the lands and material or the use and occupation of the lands in question;

(2) A particular description of the land, the use and occupation thereof and the material sought to be condemned; and

(3) An application to the county court to appoint commissioners to award the amount of compensation the owner thereof is entitled to receive therefor].

Section 128. KRS 416.340 is amended to read as follows:

Any water association supplying water to no less than 100 customers, which has been formed under the provisions of KRS Chapter 273, may exercise the power of eminent domain in accordance with the provisions of *the Eminent Domain Act of Kentucky* [KRS 416.010 to 416.080].

Section 129. KRS 94.690, 94.700, 94.710, 94.720, 96.610, 96.620, 96.630, 106.240, 108A.080, 177.083, 177.084, 177.085, 177.086, 177.087, 177.088, 177.089, 381.580, 381.590, 381.600, 381.610, 381.620, 381.630, 416.015, 416.020, 416.030, 416.040, 416.050, 416.060, 416.070, 416.080, 416.115, 416.160, 416.170, 416.180, 416.190, 416.200, 416.240, 416.250, 416.260, 416.270, 416.280, 416.290, 416.300, 416.310, 416.320, 416.410, 416.420, 416.430, 416.440, 416.450, 416.460, 416.470, 416.480, 416.490, 416.500, 416.510, 416.520, and 416.530 are repealed.

The Committee on Labor and Industry reported **HB 101, HB 111, HB 121,** HB 262, and **HB 263** with Committee Amendment attached thereto with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 101, AN ACT relating to workmen's compensation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 342.185 is amended to read as follows:

No proceeding under this chapter for compensation for an injury or death shall be maintained unless a notice of the accident shall have been given to the employer as soon as practicable after the happening thereof and unless a claim for compensation with respect to such injury shall have been made within two years after the date of the accident, or in case of death, within two years after such death, whether or not a claim has been made by the employe himself for compensation. Such notice and such claim may be given or made by any person claiming to be entitled to compensation or by some one in his behalf. If payments of compensation as such have been made voluntarily the making of a claim within such period shall not be required, but shall become requisite within *two years* [one year] following the suspension of such voluntary payments or within two years of the date of the accident, whichever is later.

HB 111, AN ACT relating to unemployment compensation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 341.100 is amended to read as follows:

(1) In determining for any purpose under this chapter whether or not any work is suitable for a worker the commissioner shall consider, among other pertinent conditions, the degree of risk involved to his health, safety and morals; his physical fitness and prior training; his experience and prior earnings; his length of unemployment and prospects for securing local work in his customary occupation; and the distance of the available work from his residence.

(2) For the purpose of this chapter, no work shall be suitable and [neither waiting period credit nor] benefits shall *not* be denied under this chapter to any otherwise eligible worker for refusing to accept new work or new conditions of work under one or more of the following:

(a) If the position offered is vacant due directly to a strike, lock-out or other labor dispute;

(b) If the wages, hours, or other conditions of the work offered are substantially less favorable than those prevailing for similar work in the locality;

(c) If, as a condition of being employed, the worker would be required to join a company union or to resign from or refrain from joining any bona fide labor organization;

(d) If the acceptance of such work would be prejudicial to the continuance of an established employer-employe relationship to which the worker is a party.

Section 2. KRS 341.360 is amended to read as follows:

No worker may [serve a waiting period or] be paid benefits for any week of unemployment:

(1) With respect to which a strike or other bona fide labor dispute which caused him to leave or lose his employment is in active progress in the establishment in which he is or was employed, except that [waiting periods may be served and] benefits may be paid unless the employer notifies the division in writing within seven days after the beginning of such alleged strike or labor dispute of the alleged existence of such strike or labor dispute. For the purpose of this subsection a lockout shall not be deemed to be a strike or a bona fide labor dispute and no worker shall [be denied credit for a waiting period or] be denied benefits by reason of a lockout;

(2) For which he has received or is seeking unemployment compensation under an unemployment compensation law of another state or of the United States, except as otherwise provided by an arrangement between this state and such other state or the United States. But if the appropriate agency of such state or of the United States finally determines that he is not entitled to such unemployment compensation, this subsection shall not apply; or

(3) Which, when based on service in an instructional, research, or principal administrative capacity in an institution of higher education (as defined in subsection (2) of KRS 341.067) begins during the period between two successive academic years, or during a similar period between two regular terms, whether or not successive, or during a period of paid sabbatical leave provided for in the individual's contract, if the worker has a contract or contracts to perform services in any such capacity for any institution or institutions of higher education for both such academic years or both such terms.

Section 3. KRS 341.370 is amended to read as follows:

(1) According to the circumstances in each case, a worker shall be disqualified from receiving benefits [or serving a waiting period]:

(a) For not less than one (1) nor more than sixteen (16) weeks immediately following the commission of the disqualifying act, if, subsequent to his most recent work, he has failed without good cause either to apply for available, suitable work when so directed by the employment office or the commissioner or to accept suitable work when offered him, or to return to his customary self-employment when so directed by the commissioner; or

(b) For not less than six (6) nor more than sixteen (16) weeks immediately following the commission of the disqualifying act, if he has been discharged for misconduct connected with his most recent work, but legitimate activity in connection with labor organizations or failure to join a company union shall not be construed as misconduct.

(2) A worker shall be disqualified from receiving benefits [or serving a waiting period] for the duration of any period of unemployment with respect to which:

(a) He was discharged for dishonesty in connection with his most recent work;

(b) He voluntarily quit his most recent work to marry or for the purpose of attending school, or to become self-employed; or

(c) He has left his most recent suitable work voluntarily without good cause.

(3) A worker shall be disqualified from receiving benefits for any week with respect to which he knowingly made a false statement to establish his right to or the amount of his benefits; and, within the succeeding twenty-four (24) months, for such additional weeks immediately following the date of discovery, not to exceed a total of fifty-two (52), as may be determined by the commissioner.

(4) No worker shall be disqualified under paragraph (b) of subsections (1) or (2) of this section unless the employer, within a reasonable time as prescribed by Secretary's regulation, notifies the Department for Human Resources and the worker in writing of the alleged voluntary quitting or the discharge for misconduct; Provided, however, That nothing in this subsection shall restrict the right of the Secretary for Human Resources to disqualify a worker whose employer has refused or failed to notify the Department for Human Resources of the alleged voluntary quitting or discharge for misconduct if such alleged voluntary quitting or discharge for misconduct is known to the Secretary for Human Resources prior to the time benefits are paid to such worker; Provided, further, That the exercise of such right by the Secretary for Human Resources, in the absence of timely notice from the employer, shall not relieve the employer's reserve account of benefit charges under the provisions of subsection (3) of KRS 341.530.

(5) As used in this section and in subsection (3) of KRS 341.530, "most recent" work shall be construed as that work which occurred after the first day of the worker's base period and which last preceded the week of unemployment with respect to which benefits are claimed; except that, if the work last preceding such week of unemployment was intermittent or temporary in nature, most recent work may be construed as that work last preceding such intermittent or temporary work.

HB 121, AN ACT relating to deductions from wages of employes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 337.070 is amended to read as follows:

All employers [who employ ten or more and pay their employes by check or otherwise,] making deductions from the salaries and wages due [said] employes, shall state specifically the amount for which the deductions are made, and each such employer at the time of payment of salary or wage to each employe shall furnish the employe a statement giving the amount of each deduction and the [general] purpose for which the deduction is made.

HB 262, AN ACT relating to plumbers and plumbing.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 318.100 is amended to read as follows:

No person, *corporation, unincorporated association, partnership, or business* shall advertise or hold himself out as a licensed master or [licensed] journeyman plumber*, or as a plumbing contractor,* within the commonwealth of Kentucky unless he is holder of a license from the state department for human resources in accordance with the provisions of this chapter.

HB 263, AN ACT relating to plumbers and plumbing.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 318.064 is amended to read as follows:

The department may revoke or suspend any plumber's license issued by it upon proof that the licensee has:

(1) [Knowingly] Violated the provisions of this chapter or the Kentucky state plumbing code, or the rules and regulations of the board;

(2) Practiced fraud or deception in applying for or obtaining a license;

(3) Is incompetent to perform services as a licensed master plumber or a licensed journeyman plumber;

(4) Permitted his license to be used directly or indirectly by another to obtain or perform plumbing work or services; or

(5) Is guilty of such other unprofessional or dishonorable conduct of a character likely to deceive or defraud the public.

The Committee Amendment to **HB 263** is as follows:

Amend printed copy of House Bill 263 on page 1, line 4, after the word "the" insert the words, *licensee has* and delete "ihs".

The Committee on Rules reported **HB 36, HB 38, HB 76, HB 233,** and **HCR 13** have been posted for passage in Orders of the Day, February 6, 1976.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Banking and Insurance: **HB 408, SB 102.**

Cities: **HB 395, HB 252.**

Education: **HB 270, HB 260.**

Elections and Constitutional Amendments: **HB 234, HB 239, HB 264, SB 33.**

Health and Welfare: **HB 391.**

Judiciary-Courts: **HB 431, HB 432, HB 433, HB 434, HB 435.**

Judiciary-Statutes: **HB 290.**

Appropriations and Revenue: **HB 104, HB 57.**

Labor and Industry: **HB 116, HB 134, HB 208, HB 312.**

State Government: **HR 39, HB 411.**

The Clerk announced the following Bills and Resolutions have been withdrawn from Committee consideration:

Education: **HB 163, HB 164.**

Labor and Industry: **HB 329.**

Calendar

HB 8 with Committee Substitute attached thereto, **HB 168** with Committee Substitute attached thereto, **HB 17, HB 29, HR 5, HR 6, HR 7, HR 23, SB 15, HB 83** with Committee Substitute attached thereto, **HB 86, HB 335, HB 356** with Committee Amendment attached thereto, **HB 236,** and **HB 275** taken from the Calendar and ordered read at length for the second time. Representative B. Richardson moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Motions, Petitions and Communications

Representative DeFalaise moved the adoption of the following Legislative Citiation No. 12:

The House of Representatives of the Commonwealth of Kentucky hereby honors Covington Catholic High School on the occasion of their 50 Year Celebration. This body commends all persons associated with Covington Catholic High School since 1926 for their outstanding contributions to the field of private education. This body further acknowledges and recognizes the graduates of Covington Catholic High School for their contributions to and enrichment of the Commonwealth, and extends best wishes and high hopes for all future graduates. (Sponsored by Representative DeFalaise)

Agreed.

Representative Burnette moved the adoption of the following Legislative Citation No. 16:

The House of Representatives of the Commonwealth of Kentucky hereby honors the city of Fulton as having been selected an All Kentucky City for 1975 by the Kentucky Chamber of Commerce. This body further commends the citizens of Fulton for their efforts in achieving this honor for the second consecutive year. (Sponsored by Representative Burnette)

Representative Burnette moved the adoption of the following Legislative Citation No. 15:

The House of Representatives of the Commonwealth of Kentucky hereby recognizes the Fulton County Chamber of Commerce, Hickman, Kentucky, and applauds their achievements during the past year as acknowledged at their successful banquet held on January 31, 1976. This body further commends the Fulton County Chamber of Commerce for the many progressive steps they have taken toward the betterment of their community and the Commonwealth. (Sponsored by Representative Burnette)

Agreed.

Representative Burnette moved the adoption of the following Legislative Citation No. 14:

The House of Representatives of the Commonwealth of Kentucky hereby honors Barbara Amberg of Hickman, Kentucky, and congratulates her on her selection as Citizen of the Year by the Fulton-Hickman Chamber of Commerce. This body commends her altruistic contributions to her community, and extends to her best wishes for the future. (Sponsored by Representative Burnette)

Agreed.

Representative Blume moved that the rules be suspended for the purpose of making a motion to amend the rules. Agreed.

Representative Blume moved that all ex-members of the House and Senate be automatically granted the privilege of the floor. Agreed.

Representative Benson moved that the rules be suspended for the purpose of reporting and acting on a Resolution. Agreed.

Representative Benson moved the adoption of the following **HR 43:**

HR 43, A RESOLUTION to adjourn the House in memory of James P. Hallahan.

WHEREAS, James P. Hallahan, legislator, tireless public servant, and loyal friend has departed this earthly life; and

WHEREAS, James P. Hallahan faithfully served Jefferson County as state representative in 1944; and

WHEREAS, he further served Jefferson County as county court clerk from 1961 to 1973; and

WHEREAS, the many who were fortunate enough to have known James P. Hallahan and benefited from his compassion, knowledge, loyalty, spirit and humility will remain forever bereft by such sudden departure;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That when the House does adjourn on Thursday, February 5, 1976, it does so in memory of James P. Hallahan and extends its deepest sympathy to his family.

Section 2. That the Clerk of the House be directed to send a copy of this resolution to the family of James P. Hallahan.

HR 43 was adopted by voice vote.

Orders of the Day

Representative B. Richardson moved that consideration of **HB 59** be deferred and that it retain its position in Orders of the Day. Agreed.

HB 84, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hancock moved the adoption of the Committee Amendment No. 1 to **HB 84.** Agreed.

Representative Hancock moved that **HB 84** as amended be passed.

On the roll call the vote was yeas 82-B. Adams, A. S. Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blandford, Blume, Boatwright, Brinkley, Brown, Carpenter, Clarke, Cooper, Craddock, Crupper, Cyrus, Dawahare, DeFalaise, DeMarcus, Denham, Deskins, Dietz, Doss, Dunn, Fitzgerald, Floyd, Foster, Gay, Givhan, Gray, Hancock, Head, Holbrook, Hopkins, Hughes, Isler, Jones, Kenton, Kidd, King, Kleier, LeMaster, Lindsay, Mann, Mason, May, McBee, McBride, McGill, Morris, Muncy, Nett, O'Brien, Overstreet, Pearl, Priddy, Richards, B. Richardson, P. Richardson, Robinson, Romines, Sale, Schmidt, Siemens, Siler, Stephens, Stewart, Tobin, Thomas, J. Turner, Vincent, Wells, White, Wible, Wooden, Yates. Nays 10-Ackerson, Burnette, Guenthner, Hardwick, Holloway, Imes, Little, Rattliff, R. Turner, Wright.

HB 84 as amended was passed and the title agreed to.

Representative Hancock moved that the vote by which **HB 84** as amended was passed be reconsidered and said motion be posponed indefinitely. Agreed.

HB 85 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Yates moved the adoption of the following Floor amendment No. 1 to **HB 85:**

Amend printed copy of House Bill 85 on page 1, line, 4 by deleting "other than" and inserting in lieu thereof the following: "*in addition to*";

and on line 8, by deleting: "Whenever" and inserting in lieu thereof the following: "*WHEN*";

and on line 8, by inserting after the word "highway" the following: "*established prior to February 12, 1969*";

and on line 13, by deleting: "has been dedicated to the county road" and inserting in lieu thereof the following: "*may be dedicated to public use.*"

and on line 14, by deleting: "system" and inserting in lieu thereof the following: *Provided, that fifty-five percent (55%) of all property owners abutting the private road, street or highway sign a petition stating that they are willing to dedicate the road, street, or highway to public use.*

and on page 2, line 3, by deleting: "the county" and inserting in lieu thereof the following: "*public use,*"

and on line 4, by deleting the words "road system."

and on line 9, by deleting "to the" and inserting in lieu thereof the following: "*to public use,*"

and on line 10, by deleting the words "county road system,"

and on line 13, by inserting after the word "purposes" the following: "*However, if the road, street, or highway is dedicated in accordance with the provisions of section three (3), and a plat does not exist, then the fiscal court shall establish a fifty (50) foot minimum width for dedication to public use.*"

and on line 24, by deleting "." and inserting after the word "passway" the following: "*with less than four (4) platted lots or with less than four (4) lots that are not platted.*"

Agreed.

Representative Yates moved that **HB 85** as amended be passed.

On the roll call the vote was yeas 76-Ackerson, J. Allen, W. Allen, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blandford, Blume, Blythe, Boatwright, Brinkley, Burnette, Cooper, Craddock, Cyrus, Dawahare, DeFalaise, DeMarcus, Denham, Deskins, Donnermeyer, Doss, Dunn, Fitzgerald, Floyd, Gay, Givhan, Gray, Guenthner, Hancock, Head, Holbrook, Holloway, Hopkins, Hughes, Hurst, Imes, Isler, Kenton, Kidd, King, Kleier, LeMaster, Lindsay, Little, Mann, Mason, Maynard, McBee, McBride, McGill, Morris, Muncy, Nett, O'Brien, Overstreet, Priddy, Richards, B. Richardson, Romines, Sale, Schmidt, Siemens, Stewart, Tobin, Thomas, J. Turner, R. Turner, Vincent, Wible, Wooden, Wright, Yates. Nays 12-A. S. Adams, Arnold, Brown, Carpenter, Clarke, Foster, Jones, May Pearl, Robinson, Stephens, White.

HB 85 as amended was passed and the title agreed to.

Representative Yates moved that the vote by which **HB 85** as amended was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 87 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Vincent moved that **HB 87** be passed.

On the roll call the vote was yeas 75-Ackerson, B. Adams, A. S. Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blandford, Blume, Blythe, Boatwright, Brinkley, Brown, Bruce, Burnette, Carpenter, Clarke, Cooper, Craddock, Crupper, Cyrus, Dawahare, DeFalaise, Denham, Deskins, Donnermeyer, Doss, Dunn, Fitzgerald, Floyd, Foster, Gay, Givhan, Hancock, Hardwick, Head, Holbrook, Hurst, Isler, Jones, Kenton, Kidd, Kleier, LeMaster, Lindsay, Little, Mason, May, McBee, McGill, Morris, Muncy, Nett, O'Brien, Pearl, Rattliff, Richards, B. Richardson, Robinson, Sale, Siemens, Siler, Tobin, Thomas, R. Turner, Vincent, Wells, Wible, Wooden, Yates. Nays 14-DeMarcus, Gray, Guenthner, Holloway, Hopkins, Imes, King, Mann, Maynard, McBride, Overstreet, Stephens, White, Wright.

HB 87 was passed and the title agreed to.

Representative Vincent moved that the vote by which **HB 87** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 180 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Schmidt moved that **HB 180** be passed.

On the roll call the vote was yeas 92-Ackerson, B. Adams, A. S. Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blandford, Blume, Blythe, Boatwright, Brinkley, Brown, Bruce, Burnette, Carpenter, Clarke, Cooper, Craddock, Crupper, Cyrus, Dawahare, DeFalaise, DeMarcus, Denham, Deskins, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Floyd, Foster, Freeman, Gay, Givhan, Gray, Guenthner, Hancock, Hardwick, Head, Holbrook, Holloway, Hopkins, Hurst, Imes, Isler, Jones, Kenton, Kidd, King, Kleier, LeMaster, Lindsay, Little, Mann, Mason, May, Maynard, McBee, McBride, McGill, Morris, Muncy, Nett, O'Brien, Overstreet, Pearl, Richards, B. Richardson, P. Richardson, Robinson, Sale, Schmidt, Siemens, Siler, Stephens, Tobin, Thomas, R. Turner, Vincent, Wells, White, Wible, Wooden, Wright, Yates. Nays 0.

HB 180 was passed and the title agreed to.

Representative Schmidt moved that the vote by which **HB 180** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative B. Richardson moved that consideration of **HB 261** be deferred and that it retain its position in Orders of the Day. Agreed.

Announcements

Representative Hardwick moved that the rules be suspended for the purpose of making a motion.

On the roll call the vote was yeas 68-B. Adams, A. S. Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blandford, Blythe, Boatwright, Brinkley, Brown, Burnette, Clarke, Craddock, Crupper, Dawahare, DeFalaise, DeMarcus, Denham, Deskins, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Foster, Freeman, Givhan, Gray, Guenthner, Hancock, Hardwick, Holbrook, Holloway, Hopkins, Imes, Isler, Kidd, King, LeMaster, Little, Mason, May, Maynard, McBee, McBride, McGill, Morris, Nett, Overstreet, Rattliff, Richards, P. Richardson, Sale, Schmidt, Tobin, Thomas, R. Turner, Wells, White, Wible, Wooden, Wright, Yates. Nays 1-Kenton.

The motion that the rules be suspended for the purpose of making a motion was adopted.

Representative Hardwick moved that his vote be changed from "nay" to "yea" on the passage of **HB 84.** Agreed.

Representative B. Richardson moved that the rules be suspended for Introduction of Bills and Resolutions and Posting of Bills and Resolutions for Committee Consideration. Agreed.

Introduction of Bills and Resolutions

HB 454, by Representative Little: AN ACT relating to public school employes.

HB 455, by Representative B. Richardson: AN ACT relating to revenue and taxation.

HB 456, by Representative B. Richardson: AN ACT relating to legal representation for the Department for Natural Resources and Environmental Protection.

HB 457, by Representative B. Richardson: AN ACT relating to the organization of the Department for Natural Resources and Environmental Protection.

HB 458, by Representative B. Richardson: AN ACT relating to pollution discharge.

HB 459, by Representative B. Richardson: AN ACT relating to the bonding and civil penalties associated with strip mining operations.

HB 460, by Representatives Nett, King, Donnermeyer, Kleier, Mann, and Schmidt: AN ACT relating to insurance.

HB 461, by Representative Overstreet: AN ACT relating to public assistance.

HB 462, by Representative Fitzgerald: AN ACT relating to immunity from liability.

HB 463, by Representative Kleier: AN ACT relating to elections.

HB 464, by Representatives Kleier, A. S. Adams, Blair, Bendl, Denham, Fitzgerald, LeMaster, Maynard, and Wooden: AN ACT relating to medical assistance.

HB 465, by Representative Kleier: AN ACT relating to Clerk's fees.

HR 44, by Representatives Bruce, B. Adams, Arnold, Blandford, Brinkley, Burnette, Craddock, Crupper, DeMarcus, Fitzgerald, Floyd, Foster, Gray, Hardwick, Head, LeMaster, Mann, May, Morris, Pearl, P. Richardson, Tobin, Thomas, Vincent, Wells, and White: A RESOLUTION memorializing the Congress and President of the United States to limit beef import.

Posting of Bills and Resolutions for Committee Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Labor and Industry: **HB 102, HB 116, HB 123, HB 128, HB 208.**

State Government: **HB 359.**

Representative Donnermeyer moved that the rules be suspended for the purpose of changing his vote. Agreed.

Representative Donnermeyer moved that his vote be recorded as "yea" on the passage of **HB 84.** Agreed.

Announcements (continued)

The following meetings were announced:

State Government, 9:00 a.m., February 6, 1976, Room 305.

Labor and Industry, on adjournment, February 9, 1976.

Joint Appropriations and Revenue, 1:00 p.m., February 6, 1976, Senate Chamber.

Coal County Legislators, one-half hour before the session, February 6, 1976, Room 308.

The following members filed requests with the Clerk to have their names added as co-sponsors of Bills and Resolutions: Representative Ackerson, **HB 261, HB 87, HB 85;** Representative Burnette, **HB 273;** Representative Foster, **HB 396;** Representative Pearl, **HB 160;** Representative Morris, **HB 62;** Representatives Siemens, Benson, Nett, Bendl, Maynard, Wright, Ackerson, Wooden, Kleier, and Blythe, **HB 276.**

Adjournment

Representative B. Richardson moved that the House adjourn until 10:00 a.m., Friday, February 6, 1976.

On the roll call the vote was yeas 58-Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blandford, Boatwright, Brinkley, Brown, Burnette, Clarke, Craddock, Crupper, Cyrus, DeFalaise, Dietz, Donnermeyer, Doss, Dunn, Foster, Givhan, Guenthner, Hancock, Holbrook, Holloway, Hughes, Isler, Kenton, Kidd, Kleier, LeMaster, Lindsay, Little, Mason, May, McBee, McBride, McGill, Morris, Nett, O'Brien, Overstreet, Pearl, B.

Richardson, P. Richardson, Robinson, Sale, Siemens, Siler, Stephens, Tobin, R. Turner, Vincent, White, Wible, Yates. Nays 4-Deskins, Fitzgerald, Gray, Mann.

The motion to adjourn was adopted.

FRIDAY, FEBRUARY 6, 1976

TWENTY-FIFTH LEGISLATIVE DAY

The House was called to order by Speaker Kenton.

Prayer by Reverend K. L. Moore, First Baptist Church, Frankfort.

The roll was called. All present except Representatives Benson, Bruce, Clapp, Lindsay, Morgan, Muncy, Overstreet, and R. Turner.

Representative Isler moved that absent members be granted leave of absence in accordance with the prevailing rules of the House. Agreed.

Representative Hughes moved that the reading of the Journal of February 5, 1976, be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HB 466, by Representatives Bendl, Benson, Ackerson, Blythe, Donnermeyer, Guenthner, Jones, Kleier, Mann, Maynard, McGill, Nett, Wooden, and Yates: AN ACT relating to an office for Geriatrics-Gerontology in the Department for Human Resources.

HB 467, by Representatives Siemens and Pearl: AN ACT relating to mortgage enforcement expenses.

HB 468, by Representatives Siemens and Pearl: AN ACT relating to ownership of property.

HB 469, by Representative Boatwright: AN ACT relating to state owned wildlife management areas.

HB 470, by Representative DeFalaise: AN ACT relating to speedy trials for offenders.

HB 471, by Representatives Romines and Pearl: AN ACT relating to motor vehicles.

Senate Message

Announcing passage of **SB 13, SB 28, SB 85, SB 116, SB 118,** and **SB 143.**

Report of Committees

The Committee on Counties and Special Districts reported **HB 278,** with Committee Amendment attached thereto, and **HB 303,** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 278, AN ACT relating to county attorneys.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 69.276 is amended to read as follows:

(1) The county attorney in counties containing a city of the second, third or fourth class may appoint *one (1) or more* [an] assistant county attorneys*, as needed,* for the duration of his term, subject to removal at any time by the county attorney.

(2) The assistant county attorney shall receive an annual salary to be fixed by the fiscal court and paid out of the excess fees received by the county attorney or out of the general county levy, and such payment shall not diminish the total salary, fees or commissions paid to the county attorney. He shall reside in the county in which the county attorney is elected and shall be an attorney licensed to practice in the

Commonwealth and shall have the same powers and perform the same duties as the county attorney, subject to the direction and control of the county attorney. In the absence of the county attorney, *an* [the] assistant shall act as county attorney, without additional compensation.

The Committee Amendment to **HB 278** is as follows:

Amend printed copy of House Bill 278 page 1, line 5, after the word "needed." insert "with the approval of the fiscal court of that county,"

and on page 1, line 8, delete the word "The" and replace it with the word "An".

HB 303, AN ACT relating to Planning and Zoning.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 100.212 is amended to read as follows:

When in any planning unit containing any portion of a county a hearing is scheduled on a proposal to amend any zoning map plat, plan, text or regulation, the following notice shall be given in addition to any other notice required by statute by local regulation or ordinance to be given:

(1) Notice of the hearing shall be posted conspicuously on the property the classification of which is proposed to be changed *for fourteen (14) consecutive days. Posting shall be as follows:* [; and]

(a) The sign shall state "zoning change" and the proposed classification change in letters three (3) inches in height. The time, place and date of hearing shall be in letters one (1) inch in height.

(b) The sign shall be constructed of durable material.

(2) Notice of the hearing shall be given at least fourteen (14) days in advance of the hearing by registered mail or by certified mail, return receipt requested to the owners of all property adjoining the property the classification of which is proposed to be changed. *Three (3) days prior to the hearing there shall be filed with the legislative body an affidavit listing the persons notified.* [It shall be the duty of the person or persons proposing the amendment to furnish to the planning commission the names and addresses of the owners of all adjoining property.]

(3) Notwithstanding the provisions of KRS Chapter 424, notice of the hearing, shall be published in the newspaper with the largest bona fide circulation in the affected area for seven (7) consecutive days prior to the hearing. In areas where there is a weekly newspaper published, the notice shall be published four (4) consecutive weeks prior to the hearing.

(4) The burden of notifying, posting and publishing shall be on the person requesting the zoning change.

The Committee Amendment to **HB 303** is as follows:

Amend printed copy of House Bill 303 page 1, line 12, after the word "days" insert "immediately prior to the hearing"

and on line 16, after the word "letters" insert "at least";

and on line 18, after the word "material" insert "and shall state the telephone number of the appropriate zoning commission";

and on page 2, line 3, delete the word "Three";

and on line 4, delete the entire line;

and on line 5, delete the entire line;

and on line 6, delete the word "notified" and the period following it remove the bracket before the word "It";

and on line 9, remove the bracket after the word "property";

and on lines 10 through 18, delete entirely lines 10 through 18.

The Committee on Rules reported **HB 275, HB 269** with Committee Substitute attached thereto, and **HB 335** have been posted for passage in Orders of the Day, February 9, 1976.

The Committee on Rules reported the following Bills have been recommitted:

HB 20, with Committee Amendment attached thereto, to the Committee on State Government.

HB 193 to the Committee on State Government.

HB 75 to the Committee on Appropriations and Revenue.

HB 4, with Committee Amendment attached thereto, to the Committee on Education.

HB 114 to the Committee on State Government.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Agriculture and Natural Resources: **HB 1, HB 2, HB 160, HB 362.**

Banking and Insurance: **HB 422.**

Business Organizations and Professions: **HB 396, HB 25.**

Cities: **HB 358, HB 353.**

Elections and Constitutional Amendments: **HB 151.**

Judiciary-Statutes: **HB 419.**

State Government: **HB 406, HJR 38, HB 193.**

Calendar

HB 319, HB 337, HB 339, HR 30, HB 202, HB 93 with Committee Substitute attached thereto, **HB 101, HB 111, HB 121, HB 262,** and **HB 263** with Committee Amendment attached thereto, taken from the Calendar and ordered read at length for the second time. Representative B. Richardson moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Orders of the Day

Representative B. Richardson moved that consideration of **HB 36, HB 38, HB 76, HB 233, HB 59** and **HB 261** be deferred and that they retain their position in Orders of the Day. Agreed.

HCR 13 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Tobin moved that **HCR 13** be adopted.

On the roll call the vote was yeas 80-Ackerson, B. Adams, J. Allen, W. Allen, Arnold, Bennett, Beshear, Bevins, Blair, Blandford, Blythe, Boatwright, Brinkley, Brown, Burnette, Carpenter, Cooper, Craddock, Crupper, Cyrus, Dawahare, DeFalaise, DeMarcus, Denham, Deskins, Dietz, Donnermeyer, Dunn, Floyd, Foster, Freeman, Gay, Givhan, Gray, Guenthner, Hancock, Hardwick, Head, Holbrook, Hopkins, Hughes, Imes, Isler, Jones, Kenton, Kidd, King, LeMaster, Little, Mann, Mason, May, Maynard, McBee, McGill, Morris, Nett, O'Brien, Pearl, Priddy, Rattliff, Richards, P. Richardson, Robinson, Romines, Sale, Schmidt, Siemens, Siler, Stephens, Tobin, Thomas, J. Turner, Vincent, Wells, White, Wible, Wooden, Wright, Yates. Nays 3-Blume, Clarke, McBride.

HCR 13 was adopted and the title agreed to.

Representative Tobin moved that the vote by which **HCR 13** was adopted be reconsidered and said motion be postponed indefinitely. Agreed.

Representative Tobin moved that the rules be suspended for the purpose of reporting and acting on a Legislative Citation. Agreed.

Representative Tobin moved the adoption of the following Legislative Citation No. 19:

The House of Representatives of the Commonwealth of Kentucky hereby honors Willoweise of Irvington, Kentucky, a nationally know watercolorist who has just released her third limited edition print from a watercolor painting of the Kentucky State Capitol and presented the Number One print to Governor Carroll on February 5, 1976. This body commends this outstanding artist for her artistic contributions to the Commonwealth and appreciates her adoption of Kentucky as her home state because of her love for its landscape and people. (Sponsored by Representative Tobin)

Agreed.

Announcements

The following members filed requests with the Clerk to have their names added as co-sponsors of Bills and Resolutions: Representative Ackerson, **HCR 13;** Representative Holbrook, **HB 317;** Representative Gay, **HB 471.**

The following members filed Floor Amendments to Bills: Representative Kenton, Floor Amendment No. 1 to **HB 59;** Representative Blume, Floor Amendment No. 2 to **HB 76;** Representative Kenton, Title Amendment to **HB 59.**

Adjournment

Representative B. Richardson moved that the House adjourn until 4:00 p.m., Monday, February 9, 1976.

On the roll call the vote was yeas 57-B. Adams, J. Allen, Arnold, Bendl, Bennett, Beshear, Bevins, Blair, Blume, Brown, Carpenter, Cooper, Crupper, Cyrus, DeFalaise, DeMarcus, Denham, Dietz, Donnermeyer, Doss, Dunn, Floyd, Foster, Givhan, Hardwick, Head, Holbrook, Hughes, Isler, Kenton, Kidd, LeMaster, Mason, May, Maynard, McBee, McBride, McGill, O'Brien, Pearl, Priddy, Rattliff, Richards, B. Richardson, Robinson, Sale, Schmidt, Siemens, Siler, Stephens, Tobin, J. Turner, Vincent, White, Wible, Wooden, Yates. Nays 17-W. Allen, Blythe, Burnette, Clarke, Deskins, Fitzgerald, Gray, Guenthner, Hancock, Holloway, Jones, King, Mann, Morris, Nett, P. Richardson, Wright.

The motion to adjourn was adopted.

MONDAY, FEBRUARY 9, 1976

TWENTY-SEVENTH LEGISLATIVE DAY

The House was called to order by Speaker Kenton.

Prayer by Reverend J. T. Harmon, First Methodist Church, Frankfort.

The roll was called. All present except Representatives Clapp, Mann, and R. Turner.

Representative Isler moved that absent members be granted leave of absence in accordance with the prevailing rules of the House. Agreed.

Representative Hughes moved that the reading of the Journal of February 6, 1976, be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HB 472, by Representatives Deskins and Fitzgerald: AN ACT relating to juvenile courts.

HB 473, by Representatives Wible, Givhan, Blandford, Blythe, Bruce, Burnette, Deskins, Dietz, Holbrook, Stephens, Stewart, Thomas, and Tobin: AN ACT relating to insurance.

HB 474, by Representatives Pearl, Burnette, Denham, Imes, O'Brien, and Wright: AN ACT relating to criminal punishment.

HB 475, by Representatives DeMarcus and Floyd: AN ACT relating to municipal bonds.

HB 476, by Representatives Hughes and Priddy: AN ACT relating to the public service commission.

HB 477, by Representatives Doss, A. S. Adams, Blandford, Dawahare, Fitzgerald, and Gray: AN ACT relating to workmen's compensation.

HB 478, by Representative Givhan: AN ACT relating to notification of officials at the time of release of inmates from confinement.

HB 479, by Representative Lindsay: AN ACT relating to peace bonds.

HB 480, by Representative Morgan: AN ACT relating to moving expenses of state employes.

HB 481, by Representative Morgan: AN ACT relating to the retirement of state employes.

HB 482, by Representative Morgan: AN ACT relating to compensation of state employes.

HB 483, by Representatives Gray, Morgan, Bruce, Cyrus, Doss, and Priddy: AN ACT relating to taxation.

HB 484, by Representatives Clapp, Bruce, Blair, Blythe, Fitzgerald, Mann, May, and Rattliff: AN ACT relating to Veterinary Medicine.

HB 485, by Representative B. Adams: AN ACT relating to cemeteries and mausoleums.

HB 486, by Representatives Little and Deskins: AN ACT relating to inheritance tax.

HB 487, by Representative Nett: AN ACT relating to political activities of state employes.

HB 488, by Representative Beshear: AN ACT relating to fire safety regulations.

HB 489, by Representative Beshear: AN ACT relating to fire safety regulations.

Senate Message

Announcing passage of **SB 100, SB 101.**

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Natural Resources: **HB 458, HB 459, HB 469, HR 44.**

Appropriations and Revenue: **HB 445, HB 447, HB 455, HB 465, SB 116, SB 28.**

Banking and Insurance: **HB 460.**

Cities: **HB 449, HB 451, SB 85.**

Counties and Special Districts: **SB 13.**

Education: **HB 452, HB 454.**

Elections and Constitutional Amendments: **HB 444, HB 448, HB 463.**

Health and Welfare: **HB 461, HB 464, HB 466, SB 64.**

Judiciary-Statutes: **HB 462, HB 467, HB 468, HB 470, HB 453, HB 446.**

Labor and Industry: **HB 450.**

Public Utilities and Transportation: **HB 471.**

State Government: **HB 456, HB 457, SB 118, SB 143.**

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Business Organizations and Professions: **HB 301.**

Counties and Special Districts: **HB 355, HB 369.**

Health and Welfare: **HB 194.**

Judiciary-Statutes: **SB 20, SB 21, HB 285.**

Judiciary-Courts: **HB 378, HB 389, HB 438.**

Public Utilities and Transportation: **HB 205.**

Report of Committees

The Committee on Rules reported **HB 83** with Committee Substitute attached thereto, **HB 111, HB 319,** and **HB 337** have been posted for passage in Orders of the Day, February 10, 1976.

The Committee on Rules reported the following Bills and Resolutions have been recommitted:

HB 82, with Committee Amendment attached thereto, to the Committee on Appropriations and Revenue.

HB 191 to the Committee on Appropriations and Revenue.

HB 112 to the Committee on Judiciary-Statutes.

Calendar

HB 278, with Committee Amendment attached thereto, and **HB 303,** with Committee Amendment attached thereto, taken from the Calendar and ordered read at length for the second time. Representative B. Richardson moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Motions, Petitions and Communications

Representative B. Adams moved the adoption of the following Legislative Citation No. 20:

The House of Representatives of the Commonwealth of Kentucky hereby recognizes February 8th through the 14th as Afro-American Week as declared by the Martin Luther King Jr. chapter of the Association for Negro Life and History. This body commends the originator, Dr. Carter Godwin Woodson, director of the Association for Study of Negro Life and History in his attempts to enlighten the people of the Commonwealth in the historical contributions of the Afro-American and acknowledges this year as the 50th anniversary of the week. (Sponsored by Representative B. Adams)

Agreed.

Representative B. Adams moved the adoption of the following Legislative Citation No. 21:

The House of Representatives of the Commonwealth of Kentucky hereby honors Mrs. Paula H. Morgan of the Rich Pond Elementary School in Warren County as Kentucky Teacher of the Year for 1976. This body commends Mrs. Morgan for the years of service she has dedicated to the youth of the Commonwealth and extends to her best wishes a Kentucky's nominee for the National Teacher of the Year for 1976. (Sponsored by Representative B. Adams)

Agreed.

Representative P. Richardson moved the adoption of the following Legislative Citation No. 18:

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors the George Roger Clark High School Band of Winchester, Kentucky, and applauds their recent performance in Washington, D.C., after having been selected as Kentucky's Bicentennial Band. This body congratulates Director Charles F. Campbell and all the members of the band for the numerous awards they have won in the past year to make them holders of the best record in Kentucky for marching bands in 1975. This body further recognizes Director Campbell and the members of this outstanding band as exemplary representatives of the Commonwealth, and extends to them sincere best wishes in their future endeavors. (Sponsored by Representative P. Richardson)

Agreed.

Representative J. Allen moved the adoption of the following Legislative Citation No. 17:

The House of Representatives of the Commonwealth of Kentucky hereby honors the city of Prestonsburg for having been selected an All Kentucky City for 1975 by the Kentucky Chamber of Commerce. This body commends the Chamber of Commerce and the citizens of Prestonsburg for their efforts in attaining this honor. (Sponsored by Representative J. Allen)

Agreed.

Representative Clarke moved that **HB 416** be taken from the Committee on Appropriations and Revenue and referred to the Committee on Counties and Special Districts. Agreed.

Orders of the Day

HB 59, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Benson moved the adoption of the Committee Amendment No. 1 to **HB 59.**

On the roll call the vote was yeas 53-B. Adams, Arnold, Bendl, Benson, Beshear, Bevins, Blandford, Blume, Blythe, Bruce, Carpenter, Cooper, Craddock, Cyrus, Dawahare, DeFalaise, Denham, Dietz, Donnermeyer, Doss, Fitzgerald, Foster, Gay, Givhan, Hancock, Head, Holbrook, Hopkins, Isler, Kenton, Kidd, Kleier, LeMaster, McBee, McBride, McGill, Morgan, Morris, Nett, Pearl, Richards, B. Richardson, P. Richardson, Sale, Schmidt, Siemens, Stephens, Stewart, Tobin, J. Turner, White, Wible, Wooden. Nays 21-Ackerson, A. S. Adams, J. Allen, Bennett, Boatwright, Brinkley, Burnette, Deskins, Dunn, Gray, Guenthner, Hardwick, Hughes, King, Little, Maynard, O'Brien, Priddy, Romines, Wright, Yates.

The Committee Amendment No. 1 to **HB 59** was adopted.

Representative Benson moved the adoption of the following Floor Amendment No. 1 to **HB 59:**

Amend printed copy of House Bill 59 on page 1, at the end of line 3 and beginning of line 4, after corporation, delete [, with power to govern themselves by any ordinance or resolutions for municipal purposes not in conflict with the constitution or laws of the state or of the United States]

and on page 1, line 12 and 13, after the words own name delete [or in the name of others,]

Agreed.

Representative Benson moved that **HB 59,** as amended, be passed.

On the roll call the vote was yeas 40-Arnold, Bendl, Benson, Beshear, Blume, Blythe, Brown, Bruce, Carpenter, Craddock, DeFalaise, Dietz, Donnermeyer, Doss, Foster, Givhan, Hancock, Imes, Isler, Kenton, Kidd, King, Kleier, LeMaster, Mason, McBee, McBride, McGill, Nett, B. Richardson, P. Richardson, Sale, Schmidt, Siemens, Stephens, Stewart, Tobin, Thomas, J. Turner, Wooden. Nays 45-Ackerson, A. S. Adams, J. Allen, W. Allen, Bennett, Blair, Blandford, Boatwright, Brinkley, Burnette, Clarke, Cooper, Crupper, Cyrus, Dawahare, DeMarcus, Denham, Deskins, Dunn, Fitzgerald, Floyd, Gray, Guenthner, Hardwick, Holloway, Hopkins, Hughes, Lindsay, Little, Maynard, Morgan, Muncy, O'Brien, Overstreet, Pearl, Priddy, Richards, Robinson, Romines, Siler, Vincent, Wells, White, Wible, Wright, Yates.

HB 59, as amended, was defeated.

Representative B. Richardson moved that consideration of **HB 261** be deferred and that it retain its position in Orders of the Day. Agreed.

HB 36 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Kleier moved that **HB 36** be passed.

On the roll call the vote was yeas 79-Ackerson, B. Adams, A. S. Adams, J. Allen, Bendl, Bennett, Benson, Beshear, Bevins, Blandford, Blume, Blythe, Boatwright, Brinkley, Brown, Carpenter, Clarke, Craddock, Crupper, Cyrus, Dawahare, DeFalaise, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Floyd, Givhan, Gray, Guenthner, Hancock, Hardwick, Head, Holbrook, Holloway, Hopkins, Imes, Isler, Kenton, Kidd, King, Kleier, LeMaster, Little, Mason, May, Maynard, McBee, McBride, McGill, Morgan, Morris, Muncy, Nett, O'Brien, Overstreet, Pearl, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Romines, Sale, Schmidt, Siemens, Siler, Stephens, Stewart, Tobin, Thomas, J. Turner, Vincent, Wells, White, Wible, Wooden, Yates. Nays 10-Blair, Bruce, Burnette, Cooper, DeMarcus, Denham, Deskins, Foster, Robinson, Wright.

HB 36 was passed and the title agreed to.

Representative Kleier moved that the vote by which **HB 36** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative Dunn moved that the vote by which **HB 59,** as amended, was defeated be reconsidered and said motion be postponed indefinitely.

On the roll call the vote was yeas 42-Ackerson, A. S. Adams, W. Allen, Arnold, Bennett, Boatwright, Brinkley, Brown, Burnette, Carpenter, Cooper, Cyrus, Dawahare, DeMarcus, Dunn, Floyd, Foster, Gray, Guenthner, Hardwick, Holloway, Hughes, Hurst, Imes, Jones, King, Lindsay, Maynard, Muncy, O'Brien, Overstreet, Priddy, Rattliff, Richards, Robinson, Romines, Siler, Vincent, White, Wible, Wright, Yates. Nays 44-B. Adams, J. Allen, Bendl, Benson, Beshear, Bevins, Blume, Blythe, Clarke, Craddock, Crupper, DeFalaise, Deskins, Dietz, Donnermeyer, Fitzgerald, Freeman, Gay, Givhan, Hancock, Holbrook, Hopkins, Isler, Kenton, Kidd, Kleier, LeMaster, Mason, McBee, McBride, McGill, Morris, Nett, Pearl, B. Richardson, P. Richardson, Sale, Schmidt, Siemens, Stewart, Tobin, Thomas, J. Turner, Wooden.

The motion that the vote by which **HB 59,** as amended, was defeated be reconsidered and said motion be postponed indefinitely was rejected.

HB 38, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Benson moved the adoption of the Committee Amendment No. 1 to **HB 38.**

On the roll call the vote was yeas 61-Ackerson, W. Allen, Arnold, Bendl, Bennett, Benson, Bevins, Blandford, Blume, Blythe, Brown, Carpenter, Clarke, Cooper, Craddock, Cyrus, DeFalaise, DeMarcus, Denham, Donnermeyer, Doss, Dunn, Fitzgerald, Floyd, Foster, Givhan, Gray, Guenthner, Head, Holbrook, Isler, Kenton, Kidd, King, Kleier, LeMaster, Mason, McBee, McBride, Morgan, Morris, Nett, O'Brien, Overstreet, Pearl, Priddy, Rattliff, Richards, B. Richardson, Romines, Sale, Schmidt, Siemens, Stephens, Stewart, J. Turner, Vincent, White, Wible, Wooden, Yates. Nays 13-B. Adams, Beshear, Boatwright, Brinkley, Burnette, Crupper, Deskins, Freeman, Gay, Hancock, Holloway, Hughes, Wright.

The Committee Amendment No. 1 to **HB 38** was adopted.

Representative Benson moved that **HB 38,** as amended, be passed.

On the roll call the vote was yeas 33-Ackerson, Bendl, Benson, Bevins, Blume, Blythe, Brown, Carpenter, Clarke, Cooper, Craddock, Cyrus, DeFalaise, DeMarcus, Dietz, Donnermeyer, Fitzgerald, Givhan, Guenthner, Head, Holbrook, Isler, Kenton, Kidd, King, Kleier, LeMaster, McBee, McBride, Nett, Sale, Siemens, Wooden. Nays 53-B. Adams, A. S. Adams, J. Allen, W. Allen, Arnold, Beshear, Blair, Blandford, Boatwright, Brinkley, Bruce, Burnette, Crupper, Dawahare, Denham, Deskins, Doss, Floyd, Foster, Freeman, Gray, Hancock, Hardwick, Holloway, Hopkins, Hughes, Hurst, Imes, Jones, Lindsay, Little, Mason, May, Morris, Muncy, O'Brien, Overstreet, Pearl, Richards, B. Richardson, P. Richardson, Robinson, Schmidt, Siler, Stephens, Stewart, Tobin, J. Turner, Vincent, Wells, White, Wible, Wright.

HB 38, as amended, was defeated.

Representative Boatwright moved that the vote by which **HB 38,** as amended, was defeated be reconsidered and said motion be postponed indefinitely.

On the roll call the vote was yeas 46-B. Adams, A. S. Adams, J. Allen, W. Allen, Beshear, Blair, Boatwright, Brinkley, Bruce, Burnette, Crupper, Dawahare, Denham, Deskins, Doss, Dunn, Floyd, Foster, Freeman, Gay, Gray, Hardwick, Holloway, Hopkins, Hughes, Hurst, Imes, Lindsay, Little, May, Morgan, Morris, O'Brien, Overstreet, Priddy, Richards, P. Richardson, Robinson, Stewart, Tobin, J. Turner, Vincent, White, Wible, Wright, Yates. Nays 36-Ackerson, Bendl, Benson, Bevins, Blume, Blythe, Brown, Carpenter, Clarke, Cooper, Craddock, Cyrus, DeFalaise, DeMarcus, Dietz, Donnermeyer, Fitzgerald, Givhan, Hancock, Holbrook, Isler, Kenton, Kidd, King, Kleier, LeMaster, Mason, McBee, McBride, Nett, Pearl, B. Richardson, Sale, Siemens, Thomas, Wooden.

The motion that the vote by which **HB 38,** as amended, was defeated be reconsidered and said motion be postponed indefinitely was adopted.

Representative B. Richardson moved that consideration of **HB 76** be deferred and that it retain its position in Orders of the Day. Agreed.

HB 233, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative DeFalaise moved the adoption of the Committee Amendment No. 1 to **HB 233.** Agreed.

Representative DeFalaise moved that **HB 233,** as amended, be passed.

On the roll call the vote was yeas 91-Ackerson, A. S. Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blandford, Blume, Boatwright, Brinkley, Brown, Bruce, Burnette, Carpenter, Clarke, Cooper, Craddock, Crupper, Cyrus, Dawahare, DeFalaise, DeMarcus, Denham, Deskins, Dietz, Donnermeyer, Doss, Dunn Fitzgerald, Floyd, Foster, Gay, Gray, Guenthner, Hancock, Hardwick, Head, Holbrook, Holloway, Hopkins, Hughes, Hurst, Imes, Isler, Jones, Kenton, Kidd, King, Kleier, LeMaster, Lindsay, Little, Mason, May, Maynard, McBee, McBride, McGill, Morgan, Morris, Muncy, Nett, O'Brien, Overstreet, Pearl, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Robinson, Romines, Sale, Schmidt, Siemens, Siler, Stewart, Tobin, Thomas, J. Turner, Vincent, Wells, Wible, Wooden, Wright, Yates. Nays 2-B. Adams, Stephens.

HB 233, as amended, was passed and the title agreed to.

Representative DeFalaise moved that the vote by which **HB 233,** as amended, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative B. Richardson moved that consideration of **HB 269** be deferred and that it retain its position in Orders of the Day. Agreed.

HB 275 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Givhan moved that **HB 275** be passed.

On the roll call the vote was yeas 75-Ackerson, B. Adams, A. S. Adams, J. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blandford, Blume, Blythe, Boatwright, Brinkley, Brown, Carpenter, Clarke, Cooper, Craddock, Cyrus, Dawahare, DeFalaise, DeMarcus, Denham, Deskins, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Floyd, Foster, Givhan, Gray, Holbrook, Hopkins, Hughes, Isler, Jones, Kenton, Kidd, Kleier, LeMaster, Little, Mason, Maynard, McBee, McBride, McGill, Morgan, Morris, Muncy, O'Brien, Pearl, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Romines, Sale, Schmidt, Siemens, Stephens, Stewart, Tobin, Thomas, J. Turner, Vincent, Wible, Wooden, Wright, Yates. Nays 14-W. Allen, Burnette, Crupper, Freeman, Gay, Hancock, Head, Holloway, Imes, King, Lindsay, Overstreet, Robinson, Siler.

HB 275 was passed and the title agreed to.

Representative Givhan moved that the vote by which **HB 275** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 335 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

On the roll call the vote was yeas 92-Ackerson, B. Adams, A. S. Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blandford, Blume, Blythe, Boatwright, Brinkley, Brown, Bruce, Burnette, Carpenter, Clarke, Cooper, Craddock, Crupper, Cyrus, Dawahare, DeFalaise, DeMarcus, Denham, Deskins, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Floyd, Foster, Givhan, Gray, Guenthner, Hancock, Hardwick, Head, Holbrook, Holloway, Hopkins, Hughes, Imes, Isler, Jones, Kenton, Kidd, King, Kleier, LeMaster, Lindsay, Little, Mason, May, McBee, McGill, Morgan, Morris, Muncy, Nett, O'Brien, Overstreet, Pearl, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Robinson, Romines, Sale, Schmidt, Siemens, Siler, Stephens, Stewart, Tobin, Thomas, J. Turner, Vincent, Wells, White, Wible, Wooden, Wright, Yates. Nays 0.

HB 335 was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **HB 335** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Announcements

Representative Stephens filed Floor Amendment No. 3 to **HB 76.**

The following members filed requests with the Clerk to have their names added as co-sponsors of Bills and Resolutions: Representative Gay, **HB 437;** Representative Schmidt, **HB 466;** Representative Isler, **HB 466.**

The following meetings were announced:

Cities, 8:00 a.m., February 10, 1976, Room 305.

Joint Appropriations and Revenue (Budget Hearings), 9:00 a.m., February 10, 1976, Senate Chamber.

Elections and Constitutional Amendments, 9:00 a.m. instead of 8:00 a.m., February 11, 1976.

Adjournment

Representative B. Richardson moved that the House adjourn until 2:00 p.m., Tuesday, February 10, 1976.

On the roll call the vote was yeas 55-A. S. Adams, J. Allen, Bendl, Bennett, Benson, Beshear, Bevins, Blandford, Blume, Brinkley, Brown, Bruce, Carpenter, Cyrus, Dawahare, DeFalaise, Denham, Dietz, Donnermeyer, Doss, Floyd, Foster, Freeman, Givhan, Hancock, Head, Hughes, Isler, Kenton, King, Kleier, LeMaster, Lindsay, Mason, May, Maynard, McBride, McGill, Morgan, Morris, Muncy, Nett, Overstreet, Pearl, Priddy, Richards, B. Richardson, P. Richardson, Robinson, Schmidt, Siler, Stewart, Thomas, J. Turner, Wible, Yates. Nays 6-Clarke, Deskins, Fitzgerald, Gray, Guenthner, Imes.

The motion to adjourn was adopted.

TUESDAY, FEBRUARY 10, 1976

TWENTY-EIGHTH LEGISLATIVE DAY

The House was called to order by Speaker Kenton.

Prayer by Reverend J. T. Harmon, First Methodist Church.

The roll was called. All present except Representatives Clapp, Floyd, and R. A. Turner.

Representative Isler moved that absent members be granted leave of absence in accordance with the prevailing rules of the House. Agreed.

Representative Hughes moved that the reading of the Journal of February 9, 1976, be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HB 490, by Representatives Stewart, Bruce and White: AN ACT relating to mining.

HB 491, by Representative Brown: AN ACT relating to annexation by municipalities.

HB 492, by Representative Isler: AN ACT relating to the Teachers' Retirement System.

HB 493, by Representatives Vincent, B. Richardson, Bruce, B. Adams, A. S. Adams, W. Allen, Arnold, Blair, Blandford, Boatwright, Brinkley, Brown, Burnette, Carpenter, Craddock, Cyrus, Deskins, Foster, Freeman, Givhan, Guenthner, Head, Hurst, Imes, LeMaster, Little, May, Morris, Pearl, Rattliff, Richards, P. Richardson, Sale, Schmidt, Siler, Stewart, Thomas, J. R. Turner, Wells, and Wright: AN ACT relating to elevators.

HB 494, by Representatives Deskins, Little, and Dawahare: AN ACT relating to coal tax.

HB 495, by Representatives Deskins and Fitzgerald: AN ACT relating to state employes' retirement systems.

HB 496, by Representative B. Richardson: AN ACT relating to actions against the Commonwealth of Kentucky.

HB 497, by Representative B. Richardson: AN ACT relating to acquisition of land for industrial development.

HB 498, by Representative B. Richardson: AN ACT relating to administrative regulations.

HB 499, by Representative B. Richardson: AN ACT relating to reorganization.

HB 500, by Representatives Maynard, J. Allen, Bendl, Bevins, Blair, Blume, Denham, Freeman, Gay, Hardwick, Holbrook, Little, McBride, Muncy, and Thomas: AN ACT relating to medical scholarships.

HB 501, by Representative Beshear: AN ACT relating to memberships of boards of education.

HB 502, by Representatives Bruce, B. Adams, and Morris: AN ACT relating to taxes.

HR 45, by Representative Overstreet: A RESOLUTION to adjourn the House of Representatives in memory of Jimmy Elliot.

HJR 46, by Representatives Romines, Priddy, Blair, Brown, Burnette, Carpenter, Cyrus, Dawahare, Dietz, Floyd, Gay, Hardwick, Holloway, Imes, Isler, Muncy, O'Brien, Siler, and Yates: A JOINT RESOLUTION creating the Interim Special Internal Security Committee to study, review and investigate un-american activities in the Commonwealth.

HR 47, by Representative Dawahare: A RESOLUTION directing the Legislative Research Commission to conduct a study to ascertain the reasons Kentucky did not receive a federal coal gasification pilot project plant and to report its findings to the 1978 Regular Session of the General Assembly.

Senate Message

Announcing passage of **SB 75** and **HB 79.**

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **HB 483, HB 486.**

Banking and Insurance: **HB 473.**

Business Organizations and Professions: **HB 484, HB 485.**

Cities: **HB 475.**

Health and Welfare: **HB 478, HB 488, HB 489.**

Judiciary-Courts: **HB 472.**

Judiciary-Statutes: **HB 474, HB 479.**

Labor and Industry: **HB 477.**

Public Utilities and Transportation: **HB 476.**

State Government: **HB 480, HB 481, HB 482, HB 487.**

Report of Committees

The Committee on Banking and Insurance reported **HB 334** and **SB 102** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 334, AN ACT relating to the definition of the term securities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 292.310 is amended to read as follows:

When used in this chapter, unless the context otherwise requires:

(1) "Director" means the Director of the Division of Securities of the Department of Banking and Securities;

(2) "Agent" means any individual other than a broker-dealer who represents a broker-dealer or issuer in effecting or attempting to effect purchases or sales of securities, but "agent" does not include an individual who represents an issuer in:

(a) effecting a transaction in a security exempted by subsections (1), (2), (3), (9), (10) or (11) of KRS 292.400,

(b) effecting transactions exempted by KRS 292.410 or

(c) effecting transactions with existing employes, partners or directors of the issuer if no commission or other remuneration is paid or given directly or indirectly for soliciting any person in this state. A partner, officer, or director of a broker-dealer or issuer, or a person occupying a similar status or performing similar functions, is an agent only if he otherwise comes within this definition;

(3) "Broker-dealer" means any person engaged in the business of effecting transactions in securities for the account of others or for his own account. "Broker-dealer" does not include:

(a) an agent, issuer, bank, savings institution, or trust company,

(b) a person who has no place of business in this state if he effects transactions in this state exclusively with or through the issuers of the securities involved in the transactions, other broker-dealers, or banks, savings institutions, trust companies, insurance companies, investment companies as defined in the Investment Company Act of 1940, pension or profit-sharing trusts, or other financial institutions or institutional buyers, whether acting for themselves or as trustees, or

(c) a person who has no place of business in this state if during any period of twelve consecutive months he does not direct more than fifteen (15) offers to sell or to buy into this state in any manner to persons other than those specified in paragraph (b);

(4) "Certified" means, when used in regard to financial statements, examined and reported upon in accordance with generally accepted auditing standards with an opinion expressed by an independent public or certified public accountant;

(5) "Fraud," "deceit," and "defraud" are not limited to common-law deceit;

(6) "Guaranteed" means guaranteed as to payment of principal, interest, or dividends;

(7) "Investment adviser" means any person who, for compensation, engages in the business of advising others, either directly or through publications or writings, as to the value of securities or as to the advisability of investing in, purchasing, or selling securities, or who, for compensation and as a part of a regular business, issues or promulgates analyses or reports concerning securities. "Investment adviser" does not include:

(a) a bank, savings institution, or trust company;

(b) a lawyer, accountant, engineer, or teacher whose performance of these services is solely incidental to the practice of his profession;

(c) a broker-dealer whose performance of these services is solely incidental to the conduct of his business as a broker-dealer and who receives no special compensation for them;

(d) a publisher of any bona fide newspaper, news magazine, or business or financial publication of general, regular, and paid circulation;

(e) a person whose advice, analyses, or reports relate only to securities exempted by KRS 292.400 (1);

(f) a person who has no place of business in this state if:

1. his only clients in this state are other investment advisers, broker-dealers, banks, savings institutions, trust companies, insurance companies, investment companies as defined in the Investment Company Act of 1940, pension or profit-sharing trusts, or other financial institutions or institutional buyers, whether acting for themselves or as trustees, or

2. during any period of twelve consecutive months he does not direct business communications into this state in any manner to more than five clients other than those specified in subparagraph 1., or

(g) such other persons not within the intent of this subsection as the director may by rule or order designate;

(8) "Issuer" means any person who issues or proposes to issue any security, except that with respect to certificates of deposit, voting trust certificates, or collateral-trust certificates, or with respect to certificates of interest or shares in an unincorporated investment trust not having a board of directors (or persons performing similar functions) or of the fixed, restricted management, or unit type, the term "issuer" means the person or persons performing the acts and assuming the duties of depositor or manager pursuant to the provisions of the trust or other agreement or instrument under which the security is issued;

(9) "Non-issuer" means not directly or indirectly for the benefit of the issuer;

(10) "Person" means an individual, a corporation, a partnership, an association, a joint-stock company, a trust where the interests of the beneficiaries are evidenced by a security, an unincorporated organization, a government, or a political subdivision of a government;

(11) "Sale" or "sell" includes every contract of sale of, contract to sell, or disposition of, a security or interest in a security for value. "Offer" or "offer to sell" includes every attempt to offer to dispose of, or solicitation of an offer to buy, a security or interest in a security for value. Any security given or delivered with, or as a bonus on account of, any purchase of securities or any other thing is considered to constitute part of the subject of the purchase and to have been offered and sold for value. A purported gift of assessable stock is considered to involve an offer and sale. Every sale or offer of a warrant or right to purchase or subscribe to another security of the same or another issuer, as well as every sale or offer, of a security which gives the holder a present or future right or privilege to convert into another security of the same or another issuer, is considered to include an offer of the other security;

(12) "Securities Act of 1933," "Securities Exchange Act of 1934," "Public Utility Holding Company Act of 1935," and "Investment Company Act of 1940" means the federal statutes of those names as amended before or after January 1, 1961;

(13) "Security" means any note, stock, treasury stock, bond, debenture, evidence of indebtedness, certificate of interest or participation in any profit-sharing agreement, collateral-trust certificate,

preorganization certificate or subscription, transferable share, investment contract, voting-trust certificate of deposit for a security; *fractional undivided interest in oil, gas, or other mineral rights;* or, in general, any interest or instrument commonly known as a "security," or any certificate of interest in or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to or purchase, any of the foregoing. "Security" does not include any insurance or endowment policy or annuity contract under which an insurance company promises to pay a fixed number of dollars either in a lump sum or periodically for life or some other specified period;

(14) "State" means any state, territory, or possession of the United States, as well as the District of Columbia and Puerto Rico.

Section 2. Whereas the definition of "Security" does not presently include fractional undivided interests in oil, gas, or other mineral rights, and whereas the protection of the public requires the inclusion of such rights in the definition of "Security," an emergency is declared to exist and this Act shall become effective upon its passage and approval by the Governor.

SB 102, AN ACT relating to the regulation of securities sales by agricultural marketing cooperatives.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 272.333 is amended to read as follows:

[The provisions of KRS chapter 292 shall not apply to any note, bond, or other evidence of indebtedness issued by an agricultural cooperative association organized under or which has adopted the provisions of KRS 272.101 to 272.341 or to any mortgage, deed of trust, or other instrument executed to secure the same.] The provisions of KRS [ch. 292,] 136.060 and 136.070, shall not apply to the issuance of membership certificates, shares of stock or any other evidence of member, shareholder, or patron interest by any such agricultural cooperative association.

Section 2. KRS 292.310 is amended to read as follows:

When used in this chapter, unless the context otherwise requires:

(1) "Director" means the director of the division of securities of the department of banking and securities;

(2) "Agent" means any individual other than a broker-dealer who represents a broker-dealer or issuer in effecting or attempting to effect purchases or sales of securities, but "agent" does not include an individual who represents an issuer in:

(a) effecting a transaction in a security exempted by subsections (1), (2), (3), *(5),* (9), (10) or (11) of KRS 292.400,

(b) effecting transactions exempted by KRS 292.410 or

(c) effecting transactions with existing employes, partners or directors of the issuer if no commission or other remuneration is paid or given directly or indirectly for soliciting any person in this state. A partner, officer, or director of a broker-dealer or issuer, or a person occupying a similar status or performing similar functions, is an agent only if he otherwise comes within this definition;

(3) "Broker-dealer" means any person engaged in the business of effecting transactions in securities for the account of others or for his own account. "Broker-dealer" does not include:

(a) an agent, issuer, bank, savings institution, or trust company,

(b) a person who has no place of business in this state if he effects transactions in this state exclusively with or through the issuers of the securities involved in the transactions, other broker-dealers, or banks, savings institutions, trust companies, insurance companies, investment companies as defined in the Investment Company Act of 1940, pension or profit-sharing trusts, or other financial institutions or institutional buyers, whether acting for themselves or as trustees, or

(c) a person who has no place of business in this state if during any period of twelve consecutive months he does not direct more than fifteen offers to sell or to buy into this state in any manner to persons other than those specified in paragraph (b);

(4) "Certified" means, when used in regard to financial statements, examined and reported upon in accordance with generally accepted auditing standards with an opinion expressed by an independent public or certified public accountant;

(5) "Fraud," "deceit," and "defraud" are not limited to common-law deceit;

(6) "Guaranteed" means guaranteed as to payment of principal, interest, or dividends;

(7) "Investment adviser" means any person who, for compensation, engages in the business of advising others, either directly or through publications or writings, as to the value of securities or as to the advisability

of investing in, purchasing, or selling securities, or who, for compensation and as a part of a regular business, issues or promulgates analyses or reports concerning securities. "Investment adviser" does not include:

(a) a bank, savings institution, or trust company;

(b) a lawyer, accountant, engineer, or teacher whose performance of these services is solely incidental to the practice of his profession;

(c) a broker-dealer whose performance of these services is solely incidental to the conduct of his business as a broker-dealer and who receives no special compensation for them;

(d) a publisher of any bona fide newspaper, news magazine, or business or financial publication of general, regular, and paid circulation;

(e) a person whose advice, analyses, or reports relate only to securities exempted by KRS 292.400 (1);

(f) a person who has no place of business in this state if:

1. his only clients in this state are other investment advisers, broker-dealers, banks, savings institutions, trust companies, insurance companies, investment companies as defined in the Investment Company Act of 1940, pension or profit-sharing trusts, or other financial institutions or institutional buyers, whether acting for themselves or as trustees, or

2. during any period of twelve consecutive months he does not direct business communications into this state in any manner to more than five clients other than those specified in subparagraph 1., or

(g) such other persons not within the intent of this subsection as the director may by rule or order designate;

(8) "Issuer" means any person who issues or proposes to issue any security, except that with respect to certificates of deposit, voting trust certificates, or collateral-trust certificates, or with respect to certificates of interest or shares in an unincorporated investment trust not having a board of directors (or persons performing similar functions) or of the fixed, restricted management, or unit type, the term "issuer" means the person or persons performing the acts and assuming the duties of depositor or manager pursuant to the provisions of the trust or other agreement or instrument under which the security is issued;

(9) "Non-issuer" means not directly or indirectly for the benefit of the issuer;

(10) "Person" means an individual, a corporation, a partnership, an association, a joint-stock company, a trust where the interests of the beneficiaries are evidenced by a security, an unincorporated organization, a government, or a political subdivision of a government;

(11) "Sale" or "sell" includes every contract of sale of, contract to sell, or disposition of, a security or interest in a security for value. "Offer" or "offer to sell" includes every attempt to offer to dispose of, or solicitation of an offer to buy, a security or interest in a security for value. Any security given or delivered with, or as a bonus on account of, any purchase of securities or any other thing is considered to constitute part of the subject of the purchase and to have been offered and sold for value. A purported gift of assessable stock is considered to involve an offer and sale. Every sale or offer of a warrant or right to purchase or subscribe to another security of the same or another issuer, as well as every sale or offer, of a security which gives the holder a present or future right or privilege to convert into another security of the same or another issuer, is considered to include an offer of the other security;

(12) "Securities Act of 1933," "Securities Exchange Act of 1934," "Public Utility Holding Company Act of 1935," and "Investment Company Act of 1940" means the federal statutes of those names as amended before or after January 1, 1961;

(13) "Security" means any note, stock, treasury stock, bond, debenture, evidence of indebtedness, certificate of interest or participation in any profit-sharing agreement, collateral-trust certificate, preorganization certificate or subscription, transferable share, investment contract, voting-trust certificate of deposit for a security; or, in general, any interest or instrument commonly known as a "security," or any certificate of interest in or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to or purchase, any of the foregoing. "Security" does not include any insurance or endowment policy or annuity contract under which an insurance company promises to pay a fixed number of dollars either in a lump sum or periodically for life or some other specified period;

(14) "State" means any state, territory, or possession of the United States, as well as the District of Columbia and Puerto Rico.

Section 3. KRS 292.400 is amended to read as follows:

KRS 292.340 to 292.390 shall not apply to any of the following securities:

(1) Any security (including a revenue obligation) issued or guaranteed by the United States, any state, any political subdivision of a state, or any agency or corporate or other instrumentality of one or more of the foregoing; or any certificate of deposit for any of the foregoing;

(2) Any security issued or guaranteed by Canada, any Canadian province, any political subdivision of any such province, any agency or corporate or other instrumentality of one or more of the foregoing, or any other foreign government with which the United States currently maintains diplomatic relations, if the security is recognized as a valid obligation by the issuer or guarantor;

(3) Any security issued by and representing an interest in or a debt of, or guaranteed by, any bank organized under the laws of the United States, or any bank, savings institutions, or trust company organized and supervised under the laws of any state;

(4) Any security issued by and representing an interest in or a debt of, or guaranteed by, any federal savings and loan association, or any building and loan or similar association organized under the laws of any state and authorized to do business in this state;

(5) Securities issued by corporations formed under KRS Chapter 279;

(6) Any security issued or guaranteed by any federal credit union or any credit union, industrial loan association, or similar association organized and supervised under the laws of this state;

(7) Any security issued or guaranteed by any railroad, other common carrier, public utility, or holding company which is

(a) subject to the jurisdiction of the Interstate Commerce Commission;

(b) a registered holding company under the Public Utility Holding Company Act of 1935 or a subsidiary of such a company within the meaning of that act;

(c) regulated in respect of its rates and charges by a governmental authority of the United States or any state or municipality; or

(d) regulated in respect of the issuance or guarantee of the security by a governmental authority of the United States, any state, Canada, or any Canadian province;

(8) Any security listed or approved for listing upon notice of issuance on the New York Stock Exchange, the American Stock Exchange, or the Midwest Stock Exchange or any other stock exchange approved by the director; any other security of the same issuer which is of senior or substantially equal rank; any security called for by subscription rights or warrants so listed or approved; or any warrant or right to purchase or subscribe to any of the foregoing;

(9) Any security issued by any person organized and operated not for private profit but exclusively for religious, educational, benevolent, charitable, fraternal, social, athletic, or reformatory purposes, or as a chamber of commerce or trade or professional association;

(10) Any commercial paper which arises out of a current transaction or the proceeds of which have been or are to be used for current transactions, and which evidence an obligation to pay cash within nine months of the date of issuance, exclusive of days of grace, or any renewal of such paper which is likewise limited, or any guarantee of such paper or of any such renewal;

(11) Any investment contract issued in connection with an employe's stock purchase, savings, pension, profit-sharing, or similar benefit plan if the director is notified in writing thirty days before the inception of the plan or, with respect to plans which are in effect on January 1, 1961, within sixty days thereafter (or within thirty days before they are reopened if they are closed on January 1, 1961).

(12) Securities issued by corporations formed under or which have adopted the provisions of KRS 272.101 to 272.345 and patronage dividends or refunds be they in the form of stock, book equities, letters of credit or letters of advice issued by any agricultural cooperative association which are the result of distributable earnings or savings.

Section 4. Whereas the sale of such securities is presently unregulated, an emergency is declared to exist and this Act shall become effective upon passage and approval by the Governor.

The Committee on Education reported **HB 171**, **HB 260** with Committee Amendment attached thereto, and **HB 270** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 171, AN ACT relating to pupil conduct.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 161.180 is amended to read as follows:

(1) Each teacher in the public schools shall hold pupils to a strict account for their conduct in school, on the way to and from school, on the playgrounds, in the lunchrooms and cafeterias, and during intermission or recess. *In the event that the teacher, in the performance of such duties, determines that a form of punishment is necessary as the result of an act of misconduct on the part of a pupil such punishment may take the form of corporal punishment only when the following conditions shall have been met:*

(a) The use of corporal punishment shall have been approved in advance as a school policy by the principal or head teacher of the school;

(b) The student shall have been informed prior to the act of misconduct that such behavior could result in the use of corporal punishment, except in those instances when the act of misconduct shall have been so anti-social or disruptive in nature as to shock the conscience;

(c) Corporal punishment shall not be employed as the initial act of punishment, subject to the exception provided in subsection (1) (b);

(d) Any use of corporal punishment shall, if necessary, be reasonable and severity of such punishment shall be determined to fit the pupil rather than the specific act of misconduct;

(e) In no instance shall corporal punishment be administered above the shoulders of the pupil;

(f) When corporal punishment is administered, it shall be by the school principal or head teacher in the presence of the teacher or by the teacher in the presence of the principal or head teacher, and in no instance shall corporal punishment be administered in the presence of other pupils; and

(g) Administration of corporal punishment shall be reported in writing immediately by the principal or head teacher to the district superintendent or appropriate assistant superintendent, and if requested by the parent, guardian or other person having legal custody or control of the pupil the principal or teacher administering the punishment shall provide a written explanation of the reasons for such administration along with the name of the second person present at the time of administration.

(2) The various boards of education of the commonwealth of Kentucky, and the principals of the public schools, may use teachers' aides in supervisory capacities, such as playground supervision, hallway supervision, lunchroom and cafeteria supervision, and other like duties, including, but not limited to, recreational activities and athletic events, relating to the supervision and control of the conduct of the pupils; and while so engaged, such teacher's aides shall have the same authority and responsibility as is granted to and imposed by law upon teachers in the performance of the same or similar duties.

HB 260, AN ACT relating to higher education.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 164.020 is amended to read as follows:

The council on public higher education in Kentucky shall:

(1) Engage in analyses and research to determine the overall needs of higher education in the commonwealth.

(2) Develop and transmit to the governor comprehensive plans for public higher education which meet the needs of the commonwealth. The plans so developed shall conform to the respective functions and duties of the state colleges and universities, the community colleges, and the University of Kentucky as provided by statute. The council shall for all purposes of federal legislation relating to planning be considered the "single state agency" as that term may be used in such federal legislation; Provided, however, that when such federal legislation requires representation on any such "single state agency" by private or nonstate institutions of higher education in the state, the commission on higher education, or its successor agency, shall be considered the "single state agency" as that term may be used in such federal legislation.

(3) Determine the amount of entrance and/or registration fees and approve the qualifications for admission to the public institutions of higher education. In determining the entrance and/or registration fees for non-Kentucky residents, the council shall consider the fees required of Kentucky students by institutions in adjoining states, the resident fees charged by other states, the total actual per student cost of training in the institutions for which the fees are being determined, and the ratios of Kentucky students to non-Kentucky students comprising the enrollments of the respective institutions, and such other factors as the council may in its sole discretion deem pertinent.

(4) Consider the requirements and review the budget requests, which shall be prepared in the manner and submitted by the institutions to the council by dates prescribed by the council, of the institutions of public higher education as to their appropriate level of support considering the functions of the institutions and their respective needs. The individual institutions' budget requests, including tuition and registration fee schedules for all categories of students, along with council recommendations which shall be submitted to the governor through the department of finance not later than November 15 of each odd numbered year.

(5) Review and approve all capital construction projects the cost of which exceeds one hundred thousand dollars ($100,000) approved by the governing boards of the state-supported institutions of higher education prior to the institutions' submission of such projects to the department of finance and/or state property and buildings commission.

(6) Require reports from the executive officer of each institution it deems necessary for the effectual performance of its duties.

(7) Publish annually a report of the educational and financial affairs of the institutions and disseminate other information relating to higher education.

(8) Approve all graduate degree programs including all schools and degree programs for which professional, regional and/or national accreditation of the school or program is available and/or licensing or certification of the graduate are required. Review proposals and make recommendations to the governor regarding the establishment of new state-supported community colleges and new four-year colleges. Provided, nothing in KRS 164.010, 164.020, 164.125, and 164.290 to 164.295 shall be construed to grant the council on public higher education authority to disestablish or eliminate any college of law which became a part of the state system of higher education through merger with a state college.

(9) Prescribe the curricula for teacher education.

(10) Prescribe a system for the standardization of all academic courses offered by the state colleges and universities, the community colleges, and the University of Kentucky, to provide for ease of transferability of academic course credit between and among such institutions. The system of standardization shall provide for common usage of academic course identification, by number and title, and course description for academic courses of identical or similar content and subject matter, among all state colleges and universities, community colleges, and the University of Kentucky, so that academic credit earned by a student at any such institution shall be acceptable for credit at all other such institutions.

(11) [(10)] Elect a chairman annually from the voting membership and appoint an executive director and such staff as may be needed and fix their compensation without limitation of the provisions of KRS chapter 18 and KRS 64.640 subject to the approval of the commissioner of personnel and the commissioner of finance.

(12) [(11)] Constitute the representative agency of the commonwealth in all matters of higher education of a general and statewide nature which are not otherwise delegated to one or more institutions of higher learning. Such responsibility may be exercised through appropriate contractual relationships with individuals or agencies located within or without the commonwealth. The authority includes but is not limited to contractual arrangements for programs of research, specialized training, and cultural enrichment.

The Committee Amendment to **HB 260** is as follows:

Amend printed copy of House Bill 260 on page 4, lines 6 and 7 by adding "*and*" before "*the community colleges*", and by deleting "*and the University of Kentucky*";

and on page 4, line 13 by adding "*and*" before "*community colleges*";

and on line 14 by deleting "*and the University of Kentucky*".

HB 270, AN ACT relating to textbooks.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 156.405 is amended to read as follows:

(1) The state textbook commission shall consist of the superintendent of public instruction and *ten (10)* [eight (8)] appointive members. The *ten (10)* [eight (8)] members shall be appointed by the state board of education upon the recommendation of the superintendent of public instruction for terms of four (4) years with two appointments each year, *except that every fourth year there shall be four (4) appointments. No member shall be eligible to serve more than two (2) full terms consecutively.* All vacancies that occur on the state textbook commission shall be filled in like manner for the remainder of the unexpired terms.

(2) *Eight of the* [The] appointive members of the state textbook commission shall have had not less than five (5) years teaching or supervising experience in the public schools of Kentucky and must have had at the time of their appointment at least four (4) years of college training in a recognized institution of higher education. Five (5) members of the commission shall be classroom teachers actively employed in the public schools of Kentucky as teachers in subject field or fields for which the commission will select books. Two (2) members shall be principals, supervisors, or superintendents of public schools or public school systems. One (1) member shall be a member of the faculty of a public institution of higher education engaged in teacher education. *Two (2) members shall be lay citizens.* In selecting the members of the state textbook commission the superintendent of public instruction shall give due regard to representation from rural and urban areas and both elementary and secondary levels when both educational levels are included in the subject field or fields for which adoptions are to be made. *The lay citizens shall have children enrolled in the public elementary or secondary schools at the time of appointment.*

(3) Members of the state textbook commission shall serve without remuneration except reimbursement for their actual expenses while attending commission meetings.

(4) The meetings of the state textbook commission shall be open to the public.

(5) Not later than July 15 each year the superintendent of public instruction shall call the state textbook commission into session. The members of the state textbook commission shall elect one (1) of its members as chairman and shall adopt rules and regulations for the procedure of the commission. The superintendent of public instruction shall be the secretary of the commission.

Section 2. KRS 156.447 is amended to read as follows:

(1) The state board of education, upon recommendation of the superintendent of public instruction, may authorize school districts to select and use supplementary textbooks, print and audio-visual media materials, and audio-visual equipment other than those selected and listed by the state textbook commission.

(2) Until such time as the General Assembly shall appropriate funds for the purpose of this section, the state board of education, upon recommendation of the superintendent of public instruction, shall make available each year a percentage of the textbook appropriation for the optional purchase of supplementary textbooks, print and non-print media materials and audio-visual equipment.

(3) Local districts may purchase basic textbooks, supplementary textbooks, media materials and audio-visual equipment in accordance with regulations adopted by the state board of education upon recommendation of the superintendent of public instruction.

[(1) The State Board of Education, upon the recommendation of the Superintendent of Public Instruction, may authorize school districts to select and use textbooks and materials other than those selected and listed by the State Textbook Commission and adopted by adoption units. For the purpose of purchasing such textbooks and materials the Superintendent of Public Instruction shall make available to all school districts an amount of money equal to that which would have been provided to the districts had they adopted a text selected and listed by the State Textbook Commission. However, in no case shall the amount of funds thus made available exceed one-fifth of the total funds for textbooks and materials made available to the district by the Superintendent of Public Instruction.

(2) Local school districts may purchase supplementary textbooks and materials in accordance with regulations adopted by the State Board of Education upon the recommendation of the State Superintendent of Public Instruction.]

Section 3. KRS 156.474 is amended to read as follows:

(1) The state board of education, upon the recommendation of the superintendent of public instruction, shall have the authority to prescribe the conditions whereby a school district may make multiple textbook adoptions for the different school subjects by grades.

(2) The state board of education, upon the recommendation of the superintendent of public instruction, shall have the authority to prescribe the rules and regulations to govern the purchase of the multiple-adopted textbooks for the school district. The superintendent of public instruction, subject to the approval of the state board of education, may purchase the textbooks from the publishers whose books have been adopted by the school district for grades kindergarten through *twelve (12)* [eight (8)] and distribute them without cost to the pupils attending the free public schools in the school district.

Section 4. KRS 157.100 is amended to read as follows:

The superintendent of public instruction, subject to the approval of the state board of education, shall purchase textbooks from the publishers whose books have been adopted by the state textbook commission *and other related media not approved by the state textbook commission* and distribute them without cost to pupils attending grades kindergarten through *twelve (12)* [eight (8)], of the free public schools of the state, in the manner and upon the conditions set out in *KRS 156.447 and in* KRS 157.110 to 157.180.

Section 5. KRS 157.110 is amended to read as follows:

Beginning with the 1977-78 school year, and each year thereafter the state board of education shall furnish textbooks to pupils attending grades kindergarten through twelve (12) of the public schools. [In the purchase and distribution of textbooks the state board of education shall first furnish textbooks to the primary grades, then, if additional funds are available, to the intermediate grades, and so on, until the fund is exhausted. If sufficient funds are not available to furnish all the textbooks to any grade, then the board may determine for what subject or subjects in that particular grade textbooks shall be provided.]

The Committee Amendment to **HB 270** is as follows:

Amend printed copy of House Bill 270 on page 6 by deleting lines 1 through 12 in their entirety, and by adding in lieu thereof the following:

In the purchase and distribution of textbooks *for grades nine (9) through twelve (12)*, the state board of education shall *furnish textbooks by phasing in one adoption group per year beginning with the 1976-77 school year* [first furnish textbooks to the primary grades, then, if additional funds are available, to the intermediate grades, and so on, until the fund is exhausted. If sufficient funds are not available to furnish all the textbooks to any grade, then the board may determine for what subject or subjects in that particular grade textbooks shall be provided].

The Committee on Highways and Traffic Safety reported **HB 287** and **HB 315,** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 287, AN ACT relating to the promotion of state police officers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 16 is created to read as follows:

(1) Promotions to sergeant within the bureau shall be on the following terms and conditions:

(a) The applicant must be classified as senior trooper to be eligible for promotion to sergeant;

(b) Promotions shall be based on the highest cumulative score computed from thirty percent (30%) on personnel performance evaluation, thirty percent (30%) on oral examination, and forty percent (40%) on a written examination;

(c) The promotional list shall continue in existence for one (1) year and promotions shall be made in consecutive order beginning with the highest numerical ranking to fill an interim vacancy. When two or more applicants receive the same numerical score, the order of placement on the list shall be determined by seniority of service. Upon the determination of a new numerical ranking following a new examination, all previous rankings shall be null and void;

(d) The written examination shall be prepared and administered by an individual designated by the commissioner. The materials and textbooks will be selected by the commissioner and his staff. The commissioner will inform all applicants at least three (3) months prior to the examination date of the exact material from which test questions will be taken;

(e) The written test shall be administered to all applicants at the same time. Immediately upon completion of the written test the applicant will receive his numerical score. Such numerical score shall remain valid for a period of two (2) years following the date of examination unless the source material upon which the test is based is changed by more than thirty percent (30%);

(f) The oral examination shall be conducted by interview boards designated by the commissioner consisting of the commissioner or his designated appointee not lower than rank of captain, an officer from another police agency of the rank equal to the position for which the applicant is competing, an instructor from an accredited law enforcement education program, a personnel director from private industry, and an officer from the Kentucky state police of the rank equal to the position for which the applicant is competing;

(g) The designated oral boards will perform all interviews under guidelines developed and approved by the commissioner;

(h) Personnel evaluations shall be made by the appropriate supervisory personnel under procedures established and approved by the commissioner.

(2) Promotions from sergeant to lieutenant within the bureau shall be on the same terms and conditions as promotions to sergeant. In addition, any applicant for lieutenant must have completed at least one (1) year of continuous service in grade as sergeant.

(3) Promotions from lieutenant to captain within the bureau shall be on the same terms and conditions as promotions to lieutenant. In addition, any applicant for captain must have completed at least one (1) year of continuous service in grade as lieutenant.

(4) The bureau will develop and administer only one (1) test for each of the above ranks. All eligible applicants will be permitted to participate in the promotional process to the next highest position of responsibility wherever a vacancy exists.

(5) the provisions of KRS 16.140 to the contrary not withstanding, all ranks above the grade of captain are temporary and shall not be subject to the provisions for selection and promotion as required herein. All officers in such temporary positions shall serve at the pleasure of the commissioner and shall revert to their previous permanent rank upon the termination of their temporary appointment.

(6) The total number of supervisory officers of all classifications shall be limited to a ratio not to exceed one (1) supervisor for every five (5) non-supervisory officers.

(7) No officer of the bureau, other than temporary positions above the rank of captain, shall be promoted to the next highest rank without competing with other officers as prescribed by this promotional procedure.

(8) There shall be no discrimination based on race, sex, age, national origin, color, religion, creed, or political affiliation with respect to the bureau promotional system. All personnel actions are to be based solely on merit.

Section 2. KRS 16.080 is amended to read as follows:

(1) The commissioner shall adopt, formulate, alter and repeal rules and regulations for the enlistment, training, discipline and conduct of officers of the bureau [; for the promotion of officers on the basis of seniority of service, qualifications being equal], and he may make any other rules and regulations for the governing and operation of the bureau as appear to him reasonably necessary to carry out the provisions of KRS 16.010 to 16.190.

(2) The commissioner may require any officer or civilian who receives or disburses public funds in the course of his duties to file a bond, conditioned that he will honestly, correctly and according to law, receive, disburse and account for all public monies coming into his hands. The commissioner and each officer shall execute a bond to the Commonwealth of Kentucky in the sum of not less than two thousand dollars, conditioned upon the faithful discharge of his duties. The premium on the bonds shall be paid by the bureau. The commissioner and each officer of the bureau shall, before entering upon the discharge of their official duties, take the constitutional oath of office.

(3) Subject to the provisions of KRS 56.440 to 56.550, the commissioner, with the approval of the Governor and the commissioner of the executive department for finance and administration, may acquire real estate or interests therein, by purchase, lease or otherwise, necessary for the purposes of the bureau, and, with like approval, provide for the acquisition or construction of necessary buildings and other permanent structures and facilities. Title to any real estate acquired shall be taken in the name of the Commonwealth.

HB 315, AN ACT relating to driver training.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 332.110 is amended to read as follows:

This chapter shall not apply to any school or educational institution which offers [to full time, regularly enrolled students] as a part of its curriculum a course in driving instruction nor to automobile dealers and their salesmen who give instruction without charge to purchasers of motor vehicles nor to employers who give instruction without charge to their employes.

The Committee Amendment to **HB 315** is as follows:

Amend printed copy of House Bill 315 on page 1, line 3, by inserting before the word "This" the following: "*(1)*";

and on page 1, line 4, by deleting the bracket after the word "offers" and before the word "to";

and on page 1, line 5, by deleting the bracket after the word "students" and before the word "as";

and on page 1, line 10, by inserting the following:

(2) This chapter shall not apply to any school or educational institution which offers to part-time students a course in drivers instruction where there is no school licensed pursuant to this chapter in the county.

The Committee on Labor and Industry reported **HB 102, HB 116** with Committee Amendments attached thereto, **HB 117, HB 128, HB 192** with Committee Amendment attached thereto, and **HB 208** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 102, AN ACT relating to workmen's compensation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 351.175 is amended to read as follows:

(1) Within forty-five (45) days after January 1, 1953, and of each year thereafter, the owner, operator, or lessee of each mine shall procure from the department a license to operate such a mine, and such license shall not be transferable. Any owner, operator or lessee who assumes control of a mine, opens a new mine or reopens an abandoned mine during any calendar year shall procure such license before mining operations are begun.

(2) The license shall be in such printed form as the commissioner may prescribe and when issued shall be kept posted at a conspicuous place near the main entrance of the mine.

(3) Requests for such license shall be made to the department, and such requests shall be accompanied by a post-office money order or cashier's check drawn in favor of the state treasurer in the amount of $25.00 for each mine. When the annual report of the operator and the annual mine map, as required by KRS 351.170 and 352.450, together with a certification from the commissioner of labor that the applicant [, except an applicant for a mine license who employs fewer than ten (10) employes,] for license has presented positive proof of compliance with the provisions of KRS Chapter 342, are properly submitted to the department, the license shall be issued. The commissioner or his accredited agents shall have the authority to extend the time for filing of the map not to exceed an additional forty-five (45) days. Upon receipt of withdrawal of the certification of the commissioner of labor the department shall forthwith revoke any license hereunder issued. Revocation of said license shall be an administrative function of the department. Appeal of said administrative function shall lie in the Fayette Circuit Court.

(4) Any owner, operator or lessee operating a mine and who fails to obtain his license as required by this section shall be guilty of a misdemeanor, and shall be fined not less than $100 nor more than $300 at the discretion of the court. Each day the mine is operated without a license constitutes a separate offense. Jurisdiction for such offenses shall lie in the Fayette Circuit Court.

HB 116, AN ACT relating to deductions from wages.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 337.060 is amended to read as follows:

No employer shall withhold from any employe any part of the wage agreed upon. [In case of any wage agreement arrived at through collective bargaining, no employer shall wilfully with intent to defraud any person, withhold from any employe any part of the wage agreed upon.] This section shall not make it unlawful for an employer to withhold or divert any portion of an employe's wage when the employer is authorized to do so by state or federal law or when a deduction is expressly authorized in writing by the employe to cover insurance premiums, hospital and medical dues, or other deductions not amounting to a rebate or deduction from the standard wage arrived at by collective bargaining or pursuant to wage agreement or statute, nor shall it preclude deductions for union dues where such deductions are authorized by joint wage agreements or collective bargaining contracts negotiated between employers and employes or their representative.

The Committee Amendment No. 1 to **HB 116** is as follows:

Amend printed copy of House Bill 116 page 1, by adding after line 20 the following:

SECTION 2. A NEW SECTION OF KRS CHAPTER 337 IS CREATED TO READ AS FOLLOWS:

In the event of a monetary award, such award shall be calculated, based on the current rate, coinciding with the date of the award, and shall include an interest award equal to six (6) percent of the total monetary award."

The Committee Amendment No. 2 to **HB 116** is as follows:

Amend printed copy of House Bill 116 page 1, line 10 insert "local," after word "by" and before word "state".

HB 117, AN ACT relating to gratuity.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 337 is created to read as follows:

(1) No employer shall require an employe to remit to the employer any gratuity, or any portion thereof, except for the purpose of withholding amounts required by federal or state law. The amount withheld from such gratuity shall not exceed the amount required by federal or state law.

(2) As used in this section "gratuity" means voluntary monetary contribution received by an employe from a guest, patron, or customer for services rendered.

Section 2. A new section of KRS Chapter 337 is created to read as follows:

Any employer who violates the provisions of this Act shall be fined not less than $50 nor more than $500 for each offense and shall make full payment to the employe by reason of said violation.

HB 128, AN ACT relating to wage discrimination.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 337.420 is amended to read as follows:

(1) "Employe" means any individual employed by any employer, including but not limited to individuals employed by the state or any of its political subdivisions, instrumentalities, or instrumentalities of political subdivisions.

(2) "Employer" means a person who has *one (1)* [eight (8)] or more employes within the state in each of twenty (20) or more calendar weeks in the current or preceding calendar year and an agent of such a person.

(3) "Wage rate" means all compensation for employment, including payment in kind and amounts paid by employers for employe benefits, as defined by the commissioner in regulations issued under KRS 337.420 to 337.433 and 337.992.

(4) "Employ" includes to suffer or permit to work.

(5) "Occupation" includes any industry, trade, business or branch thereof, or any employment or class of employment.

(6) "Commissioner" means the commissioner of labor.

(7) "Person" includes one or more individuals, partnerships, corporations, legal representatives, trustees, trustees in bankruptcy, or voluntary associations.

Section 2. KRS 337.423 is amended to read as follows:

(1) No employer shall discriminate between employes in the same establishment on the basis of sex, by paying wages to any employe in any occupation in this state at a rate less than the rate at which he pays any employe of the opposite sex for comparable work on jobs which have comparable requirements relating to skill, effort and responsibility. Differentials which are paid pursuant to established seniority systems or merit increase systems, which do not discriminate on the basis of sex, are not within this prohibition [provided, however, that nothing in KRS 337.420 to 337.433 and 337.992 shall apply to any employer who is subject to the federal fair labor standards act of 1938, as amended, when that act imposes comparable or greater requirements than contained in KRS 337.420 to 337.433 and 337.992 and when said employer files with the commissioner of the department of labor a statement that said employer is covered by the federal fair labor standards act of 1938, as amended].

(2) An employer who is paying a wage differential in violation of KRS 337.420 to 337.433 and 337.992 shall not, in order to comply with it, reduce the wage rates of any employe.

(3) No person shall cause or attempt to cause an employer to discriminate against any employe in violation of KRS 337.420 to 337.433 and 337.992.

(4) No employer may discharge or discriminate against any employe by reason of any action taken by such employe to invoke or assist in any manner the enforcement of KRS 337.420 to 337.433 and 337.992.

HB 192, AN ACT relating to unemployment compensation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 341.530 is amended to read as follows:

(1) The department shall maintain a reserve account for each subject employer, and shall, except as provided in KRS 341.590, credit to such account the total amount of all contributions paid by the employer on his own behalf. Nothing in this section or elsewhere in this chapter shall be construed to grant any employer or individual who is or was in his employ prior claims or rights to the amounts paid by him into the fund.

(2) Except as provided in subsection (3) of this section, all benefits paid to an eligible worker in accordance with KRS 341.380 and one half (1/2) of the benefits paid in accordance with KRS 341.700 to KRS 341.740 shall be charged proportionately against the accounts of those of his subject employers from whom he has base-period wages. The proportion so used shall be that ratio which is obtained by dividing the base-period wages of a worker from such employer by the total base-period wages of such worker, provided, however, that the division may, when necessary, make such fractional adjustments in such computation as may be required to assure mathematical compliance with this provision.

(3) Notwithstanding the provisions of subsection (2) of this section, benefits paid to an eligible worker and chargeable to an employer's reserve account under such subsection shall be charged against the pooled account if such worker was discharged by such employer for misconduct connected with his most recent work for such employer, voluntarily left his most recent work with such employer without good cause attributable to the employment, or such employer has continuously employed the worker without significant interruption since the end of the worker's base period and in the week with respect to which benefits are paid, wages and employment are provided to the worker by such employer to the same extent as during the base period, and the employer within a reasonable time, as prescribed by regulation of the secretary, notifies the division, in writing, of the alleged voluntary quitting, discharge for misconduct or continuing employment [; Provided, however, That no employer making payments to the fund in lieu of contributions shall be relieved of charges by reason of this subsection].

(4) Each subject employer's reserve account shall, unless terminated or exhausted as of the computation date (as defined in subsection (5) of KRS 341.270), be charged with all benefits paid to eligible workers which are chargeable to such reserve account under subsection (2) of this section. A subject employer's reserve account shall be deemed to be terminated if he has ceased to be subject to this chapter, and his account has been closed and any balance remaining therein has been transferred to the fund's pooled account or to a successor's account as provided in KRS 341.540.

(5) Any subject employer may at any time make voluntary payments to the fund, additional to the contributions required under KRS 341.260 and 341.270. Notwithstanding any other provision of this chapter, contributions paid within one (1) month following the computation date and voluntary payments made within twenty (20) days following the mailing of notices of new rates shall, in accordance with regulations established by the secretary, be credited to an employer's reserve account as of the computation date; Provided, no voluntary payments shall be used in computing an employer's rate unless such payment is made prior to the expiration of one hundred and twenty (120) days after the beginning of the year for which such rate is effective.

The Committee Amendment to **HB 192** is as follows:

Amend printed copy of House Bill 192 on page 2, line 21 after the word "employment" and before the ";" delete the " [" and after the word "that" and before the word "no", insert the following: , *except for private colleges,*;

and on line 24, after the word "subsection" and before the "." delete the "]".

HB 208, AN ACT relating to elevator inspections.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 336.580 is amended to read as follows:

If an elevator is not inspected by a special inspector, the inspection shall be made by a general inspector [, and for each inspection there shall be a fee charged as prescribed by the commissioner of labor].

Section 2. KRS 336.620 is amended to read as follows:
The commissioner of labor shall make, alter, amend, and repeal rules and regulations exclusively for the safety and inspection of elevators, and in no way relating to the construction of such elevators. *The commissioner shall have the authority to prescribe, by regulation, the fee to be charged for each inspection.*

Section 3. KRS 336.660 is repealed.

The Committee on State Government reported **HB 77,** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Ordered referred to the Committee on Rules.

Committee Amendment to **HB 77** is as follows:

Amend printed copy of House Bill 77 on page 2, line 9, by adding the word "*instructional*" before the word "*expenditure*";

and on page 2, line 10 by adding following the word "teachers" the words: "*and the amount of salaries paid to all other employes of the board shall be shown as lump sum expenditures by category, including, but not limited to, administrative, maintenance, transportation, and food service;*";

and on page 2, line 12, by adding after the words "*public scrutiny*" the following: "*and the local board shall furnish by mail a factual list of individual salaries of its employes to a newspaper qualified under KRS 424.120 to publish advertisements for the district, which newspaper may then publish as a news item the individual salaries of school employes.*".

The Committee on State Government reported **HB 288, HB 336, HB 411,** and **HCR 37** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 288, AN ACT relating to the state archives and records commission.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 171.420 is amended to read as follows:
The state archives and records commission, is hereby created and shall be a *sixteen (16)* [nine (9)] member body constituted as follows: The state librarian, who shall be the chairman of the commission, secretary of the cabinet for education and arts, the auditor of public accounts, the chief justice of the Court of Appeals, the *co-chairmen* [chairman] of the legislative research commission, *the attorney general, the director of the Office for Policy and Management,* one (1) member appointed by the governor from a list of three (3) persons submitted by the president of the University of Kentucky, one (1) member appointed by the governor from a list of three (3) persons submitted by the president of the Kentucky historical society, one (1) member appointed by the governor from a list of three (3) persons submitted by the president of the Kentucky *library* [librarians] association, [and] one (1) member appointed by the governor from a list of *seven (7)* [five (5)] persons with one (1) name submitted by each of the presidents of the state universities and colleges, *and four (4) citizens-at-large.* Vacancies shall be filled by the governor in the same manner as initial appointments are made. All members shall serve for a term of four (4) years, provided that one (1) of the initial appointments shall be for a term of four (4) years, one (1) for three (3) years, one (1) for two (2) years and one (1) for one (1) year. The commission shall advise the executive department for finance and administration on matters relating to archives and records, and questions on destruction of records as set out in KRS 171.670

HB 336, AN ACT relating to the reimbursement of the expenses of officers bringing federal prisoners into the Courts of the Commonwealth.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 455.140 is amended to read as follows: Procedure for bringing federal prisoner to trial in state court on felony charge.

The Commonwealth's attorney may enter into an agreement with representatives of the federal government for conveyance of a federal prisoner to a circuit court of this state to stand trial therein on a felony charge, upon condition that such prisoner shall remain in the custody of an agent of the United States and be returned to the federal penitentiary for completion of the term of confinement there following conclusion of the trial in the circuit court, and thereafter to be returned to this state to serve any sentence imposed here. It may also be agreed that the state will bear the expense of such conveyance. The Commonwealth's attorney shall then file in the circuit court his verified petition for writ of habeas corpus ad prosequendum stating facts as to the situation of the prisoner, the charge against him and date set for trial, the necessity of securing the prisoner for trial prior to his release in due course by federal authorities and the terms of the agreement which has been reached with such authorities. If the court deems the petition sufficient, it shall issue the writ and if the state is required to pay the expense the writ shall designate the officer to transport and guard the prisoner and such officer shall be reimbursed from the State Treasury for expenses incurred in the amount and manner provided in KRS 64.070 (1) *provided, however, that if a United States marshall or other federal official is designated by the court to transport and guard the prisoner such marshall or officer shall be reimbursed at the rate authorized by federal law or regulations.* The circuit court shall enter an order of allowance of expenses for the officer upon conclusion of the trial.

Section 2. KRS 455.150 is amended to read as follows: Procedure for bringing material witness in state felony trial from federal prison.

When a material witness for the Commonwealth in a felony prosecution pending in a court of this state is confined under judgment of conviction in any federal penal institution, the Commonwealth's attorney may enter into an agreement with the appropriate federal authorities for conveyance of the witness at the expense of this state to the circuit court in which the trial is pending, and after trial, for return to the federal penitentiary. The Commonwealth's attorney shall move the circuit court for an order for the attendance of the witness and shall state the situation of the prisoner, the date set for trial of the case, the importance of his testimony to the Commonwealth, and the agreement of the federal authorities to produce the prisoner in court. The circuit court shall designate the officer to transport and guard the prisoner and such person shall be reimbursed from the State Treasury for his expenses in the amount and manner provided in KRS 64.070 (1) *provided, however, that if a United States marshall or other federal official is designated by the court to transport and guard the prisoner such marshall or officer shall be reimbursed at the rate authorized by federal law or regulations.* The circuit court shall enter an order of allowance of expenses for the officer upon conclusion of the trial.

HB 411, AN ACT relating to the distribution of the Legislative Record.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 7 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, "legislative record" means the daily legislative record published during sessions of the general assembly and the interim legislative record published between sessions of the general assembly.

(2) The legislative research commission shall provide and mail immediately upon publication one (1) copy of each issue of the legislative record, free of charge, to the main library of each county library system in the Commonwealth and to each state college or university library designated as a Kentucky cooperative library information center by the department of library and archives. In any county that does not maintain a county library system, the commission shall provide and mail each issue of the legislative record free of charge to the library of the public high school in that county with the largest enrollment.

HR 37, A CONCURRENT RESOLUTION establishing an official Commonwealth of Kentucky Old Time Fiddlers' Convention and Championship thereof.

WHEREAS, there now does not exist an official Commonwealth of Kentucky Old Time Fiddlers' Championship; and

WHEREAS, the Grayson County Teen Action Club has sponsored a convention wherein Old Time Fiddlers have competed and been judged as to their ability; and

WHEREAS, this convention will be an annual affair to be held each July 4th in Grayson County, Kentucky; and

WHEREAS, it is desirable that an Old Time Fiddlers' Championship be established for the Commonwealth of Kentucky; and

WHEREAS, the Old Time Fiddlers' Convention held by the Grayson County Teen Action Club devotes all its proceeds to the March of Dimes;
NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That the Old Time Fiddlers' Convention conducted annually by the Grayson County Teen Action Club is the official Commonwealth of Kentucky Old Time Fiddlers' Convention and the winners thereof to be the Commonwealth of Kentucky Old Time Fiddler Champions.

Section 2. That a duly attested copy of this resolution be transmitted to the county judge and fiscal court of Grayson County and the Grayson County Teen Action Center.

The Committee on Rules reported **SB 15, HB 356,** with Committee Amendment attached thereto, **HB 339, HB 202, HR 30** have been posted for passage in Orders of the Day, February 11, 1976.

The Committee on Rules reported **HB 300,** with Committee Amendment attached thereto, and **HB 86** have been recommitted to the Committee on State Government.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Business Organizations and Professions: **HB 368.**

Cities: **HB 298, HB 299, SB 85, HB 390.**

Labor and Industry: **HB 100, HB 107, HB 119, HB 122, HB 124, HB 129, HB 132, HB 247, HB 313, HB 429.**

The Clerk announced the following Bills and Resolutions have been withdrawn from Committee consideration:

Labor and Industry: **HB 312.**

Appropriations and Revenue: **HB 374.**

Motions, Petitions and Communications

Representative DeFalaise moved that **HB 403** be withdrawn. Agreed.

Representative Overstreet moved that the rules be suspended for the purpose of reporting and acting on a Resolution. Agreed.

Representative Overstreet moved the adoption of the following **HR 45:**

HR 45, A RESOLUTION to adjourn the House of Representatives in memory of Jimmy Elliot.
WHEREAS, Jimmy Elliot of Liberty, in Casey County, has departed this earthly life, leaving a void in the hearts of those whom he knew and loved; and
WHEREAS, Mr. Elliot, long a civic leader in the city of Liberty, was a friend to all with whom he came in contact; and
WHEREAS, his memory will be recalled most fondly by such fortunate Kentuckians having known and confided in Jimmy Elliot;
NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That when the House of Representatives adjourns this day, Monday, February 9, 1976, it does so in honor and memory of Jimmy Elliot.

Section 2. That the Clerk be directed to transmit a copy of this resolution to Mrs. Jimmy Elliot.

HR 45 was adopted by voice vote.

Representative Romines moved the adoption of the following Legislative Citation No. 23:

The House of Representatives of the Commonwealth of Kentucky hereby recognizes the Jefferson County Prep Band and applauds their fine performance in the Rotunda of the Capitol on February 11, 1976. This body commends the talented members and the unselfish efforts of Kay Feddern, Sally Butler, Jane Jacobs, and Loretta Hale in making this 78 piece band an outstanding tribute to Jefferson County and the Commonwealth. (Sponsored by Representative Romines)

Agreed.

Representative Holloway moved that the rules be suspended for Introduction of Bills and Resolutions. Agreed.

Introduction of Bills and Resolutions

HB 503, by Representatives Cyrus and Muncy: AN ACT relating to railroads.

HB 504, by Representatives Priddy, Holloway, Bendl, Floyd, Guenthner, and O'Brien: AN ACT relating to the state police retirement system.

HB 505, by Representatives Holloway, O'Brien, Priddy, Bennett, Dunn, Guenthner, Hughes, Romines, and Yates: AN ACT relating to compulsory school attendance.

HB 506, by Representatives Priddy, Holloway, Bendl, Floyd, Guenthner, and O'Brien: AN ACT relating to the state police retirement system.

HB 507, by Representatives Priddy, Holloway, Bendl, Floyd, and Guenthner: AN ACT relating to the state police.

Motions, Petitions and Communications (continued)

Representative Vincent moved that **HB 215** be withdrawn. Agreed.

Representative Maynard moved that **HB 40** be withdrawn. Agreed.

Representative B. Richardson moved that the rules be suspended for Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Report of Committees

The Committee on Cities reported **HB 34,** with Committee Substitute attached thereto, **HB 62,** with Committee Amendment attached thereto, **HB 252,** and **HB 358** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 34, AN ACT relating to city housing programs.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 80 is created to read as follows:
This Act shall be known as the Kentucky Urban Homesteading Act.

Section 2. A new section of KRS Chapter 80 is created to read as follows:
As used in this Act, the following words and terms shall have the following meaning:

(1) "Applicant" means any private individual of at least eighteen (18) years of age or any private individual and spouse, both of at least eighteen (18) years of age, who respond to an advertisement and supply data to an urban homesteading board pursuant to Section 6(2) of this Act;

(2) "Residence" means a structure in a residential neighborhood which, under existing local zoning and housing regulations, could provide or be made to provide one (1) or more separate living units;

(3) "Lot" means a parcel of land in a residential neighborhood upon which, under existing local zoning and housing regulations, a residence could be constructed;

(4) "Property" means a residence or lot as defined in this Act;

(5) "Board" means an urban homesteading board created pursuant to Section 4 of this Act.

Section 3. A new section of KRS Chapter 80 is created to read as follows:

(1) The General Assembly hereby finds and declares that:

(a) an economically unsound, unsafe, and unhealthy condition exists in many of the Commonwealth's urban areas as a result of the abandonment of deteriorated housing in residential neighborhoods;

(b) the deterioration and abandonment of housing in a neighborhood has a deleterious effect upon surrounding housing because owners of such housing defer property maintenance and because private lenders are hesitant to invest the capital in such neighborhoods necessary to keep such housing in a good state of repair;

(c) abandoned housing creates unhealthful condition by providing a haven for rats and other vermin and contributes to an unsafe condition by encouraging arson and other forms of vandalism;

(d) the abandonment of housing creates an economically unsound condition for cities because the property tax base of affected cities is depleted at the same time that the demand for costly public services increases;

(e) abandonment creates a special hardship for the residents of neighborhoods in which it occurs, because the value of their homes declines while the increasing safety and health hazards depreciate the quality of residential living in their neighborhoods;

(f) abandonment encourages persons with the financial capability to migrate from such neighborhoods, and that such outmigration accelerates the decline of such neighborhoods and further decreases the quality of life for those persons who, because of low income, poor health or advanced age or a combination of these factors must remain in their deteriorating neighborhoods;

(g) abandonment discourages investment in a neighborhood for purposes of homeownership and leads to the use of housing for rental purposes, often by absentee landlords who do not have the strong interest in housing maintenance which is characteristic of homeowners or resident landlords;

(h) abandonment and outmigration from inner city neighborhoods create pressure for residential development on the fringes of urban areas where land for such development is becoming increasingly scarce and costly, and where the costs of housing and public services is increasing at a rapid rate while public utilities existing in inner city neighborhoods become underutilized;

(2) The General Assembly further finds and declares that housing abandonment is often accompanied by property tax delinquency, weed, demolition and other such liens, and that cities do or could become the owners of large numbers of abandoned properties through foreclosure proceedings.

(3) The General Assembly further finds and declares that because rehabilitation or construction of housing for resident ownership in neighborhoods which experience housing abandonment will:

(a) increase the property tax base;

(b) encourage owners to maintain their property;

(c) provide homeownership opportunities for responsible citizens who otherwise could not consider the purchase of a home;

(d) eliminate sites which house vermin and promote vandalism;

(e) encourage the inflow of private capital for housing maintenance and improvement;

(f) increase the use of existing public utilities while decreasing the demand for public services relating to public health and safety;

(g) decrease development pressure on urban fringe areas;

(h) protect the investment of homeowners while enhancing the quality of residential life for homeowners and renters alike;

that it is in the public interest for cities which own abandoned properties in residential areas to transfer ownership of such properties to persons who for their own residential use, or for the purpose of becoming resident landlords will agree to rehabilitate existing residences or construct new residences, and that such transfers may be made at nominal cost to the purchaser if such nominal cost to the purchaser is consistent with and will facilitate accomplishing the purposes of this Act.

Section 4. A new section of KRS Chapter 80 is created to read as follows:

(1) Any city which has adopted a code establishing minimum standards for the maintenance of residential property may establish an urban homesteading board which may be comprised in any one (1) of the following ways:

(a) a housing authority established pursuant to KRS 80.030;

(b) an urban renewal and community development agency established pursuant to KRS 99.350;

(c) a development authority established pursuant to KRS 99.620;

(d) a three (3) to five (5) member board appointed by the mayor with the consent of the city council; (e) at least three (3) members of the city council.

Should the members of an urban homesteading board hold their office by virtue of membership on the city council, a housing authority, an urban renewal and community development agency or a development authority, their membership on the urban homesteading board shall be coterminous with their membership on said other agency, but their actions pursuant to this Act shall constitute actions of an urban homesteading board, and shall not be construed as the actions of any other body. Should an independent urban homesteading board be created, its members shall serve four (4) year terms, which may be staggered at the discretion of the city council.

(2) The members of the board shall elect from their number a chairman and other officers as they deem necessary, and may adopt bylaws for their internal operation.

(3) The board may promulgate regulations consistent with fulfilling its responsibilities under the purposes of this Act. The city attorney shall review such regulations and shall approve them if they comply with the intents and purposes of this Act.

(4) The urban homesteading board may upon approval of the city council employ staff as necessary to implement an urban homesteading program.

(5) Members of an urban homesteading board shall be paid for expenses incurred while carrying out their official duties, and may receive compensation for their services if they are not compensated by the city in another official capacity.

Section 5. A new section of KRS Chapter 80 is created to read as follows:

(1) The urban homesteading board shall establish and maintain a catalogue of all properties in residentially zoned areas which are owned by the city. Information catalogued shall include:

(a) location;

(b) a description of the size of each lot and the size and number of rooms in each residence;

(c) a detailed description of the physical condition of the residence including a list of applicable housing code violations;

(d) an estimate of the present value of each residence;

(e) a description of the social and physical condition of the neighborhood in which the property is located;

(f) a recommendation as to the suitability of each property for inclusion in a program of neighborhood maintenance and improvement through housing rehabilitation or construction.

(2) The board shall review any documents on planning and redevelopment or similar documents which may have been prepared under the auspices of the city and shall compare its recommendations on the suitability of each residence or lot for rehabilitation or construction with the findings or recommendations of such other documents in order to avoid, where possible, duplication of effort or conflicts and inconsistencies among plans.

Section 6. A new section of KRS Chapter 80 is created to read as follows:

(1) Upon completion of its catalogue of city owned properties and comparison of its judgments with other pertinent plans and studies of the city, the board shall submit its catalogue to the city council for their review. Upon approval by resolution of the catalogue and recommendations, the city shall designate the urban homesteading board as an agent for the management and transfer of city owned properties to private individuals within the framework of a program of neighborhood maintenance and improvement.

(2) After designation as an agent for transfer of municipally owned properties, the urban homesteading board shall advertise by newspaper and other appropriate means for applicants for the urban homesteading program. Applicants shall be asked to supply data which shall be used to judge their reliability and capability to undertake a housing rehabilitation or construction effort within the context of the program. Such data shall

be used only for evaluation of applicants within the context of the urban homesteading program and shall not be used for any other purpose nor shall it be made available to any person for any other purpose.

(3) An applicant who is approved by the board shall be placed on a priority list based upon his date of approval. In conformance with his position on such list, he shall be allowed to select from the list of board recommended properties, a residence which, in the judgment of the board, using any combination of financial and technical resources which he possesses, he will be capable of rehabilitating to the point of housing code conformance, or a lot upon which he will be capable of erecting a suitable residential structure.

Section 7. A new section of KRS Chapter 80 is created to read as follows:

After a qualified applicant has selected a property under the provisions of Section 6(3) of this Act, the urban homesteading board shall convey the property to the applicant under the following conditions:

(1) The city shall charge the applicant a price which may be nominal if, in the judgment of the homesteading board, such nominal price is consonant with the combination of financial and technical resources possessed by the applicant and is consistent with accomplishing the purposes of this Act;

(2) The applicant shall agree to correct all housing code violations existing in the residence within eighteen (18) months and shall maintain the residence as his primary place of residence for a period of twelve (12) consecutive months, which period may run concurrently with the period of repair if no city ordinances would be violated thereby and if the safety of the occupants would not be endangered thereby, or the applicant shall agree to construct on the property within eighteen (18) months a new residence which satisfies all applicable city ordinances and shall maintain the new residence as his primary place of residence for a period of twelve (12) consecutive months;

(3) The applicant shall agree to correct any board specified housing code violations in an existing residence by specified dates within the eighteen (18) month maximum allowable repair period, or shall agree to make specified progress on the construction of a new residence by specified dates within the eighteen (18) month maximum allowable period for the construction of a new residence;

(4) The applicant shall carry insurance sufficient to cover the cost of the property and improvements as they are made;

(5) The applicant shall have adequate financing assured for the purchase of the property and improvements thereto;

(6) The applicant shall agree, if required by the board, to submit bids for the improvement of his property to the board for their review and approval;

(7) At no time during the period of the conditional contract between the board and the applicant shall the city be liable for the acts or omissions of the applicant;

(8) The applicant shall agree to allow inspections, upon reasonable notice and at convenient times of the day, by members or agents of the board for the purpose of verifying compliance with the terms of the contract between the applicant and the board. Upon discovery that the applicant has failed to correct specified code violations within time limits of said contract, or has failed to make specified progress on the construction of a new residence within the time limits of said contract, the board shall notify the applicant in writing of the date by which he must correct said violations or make such progress, or show cause before a hearing of the board as to why he should not be evicted. Failure to correct specified code violations or make specified progress upon notice and within the time limits established by the board, or failure to complete repairs or construction within the eighteen (18) month maximum allowable time period or failure to maintain the residence as the primary place of residence for twelve (12) consecutive months shall be sufficient cause for the board, after a hearing at which the applicant has been instructed to appear, to terminate its contract with the applicant, whereupon the applicant shall forfeit all rights and interest in the property and improvements thereto, and shall be evicted by the city;

(9) In any appeal to the courts of a board's decision to evict an applicant, the findings of the board shall be conclusive unless the applicant can demonstrate to the court that such findings were reached by gross abuse of discretion or fraud;

(10) Upon eviction of the applicant by the city, any improvements to the property made by the applicant shall become the property of the city. Upon subsequent sale of the property and improvements thereto by the city, the proceeds of such sale shall be distributed as follows:

(a) first, to satisfy any liens on improvements to the property resulting from the activities of the applicant;

(b) second, to satisfy the costs of the city related to the property;

(c) third, to compensate the applicant for any investment he may have had in the property above that represented by said liens;

(11) Under extenuating circumstances, the board may extend the eighteen (18) month period allowed for completion of repairs or construction of a new residence by up to twelve (12) months, or may reduce the twelve (12) consecutive month residency requirement;

(12) The applicant shall be informed of all the terms and conditions of the contract with the city before he enters into said contract, and he shall acknowledge in writing that he has been so informed;

(13) Title to the property shall remain with the city until the applicant fulfills all of the terms and conditions of the contract, and upon fulfillment by the applicant of all the terms and conditions of his contract with the city, the board shall execute all documents necessary to transfer to the applicant fee simple title to the property.

Section 8. A new section of KRS Chapter 80 is created to read as follows:

The board shall assist lower income applicants by informing them of any grants or low interest loans which may be available for housing rehabilitation or construction efforts, and by cooperating with those agencies which may provide grants or low interest loans to reduce any administrative problems which may beset the applicant through dealing with more than one (1) agency.

Section 9. A new section of KRS Chapter 80 is created to read as follows:

The board shall promote training programs in home repair and maintenance, and finance, taxation and budgeting as they relate to homeownership, and may cooperate with school boards, vocational schools, universities, not-for-profit agencies and other groups in order to promote or establish such programs.

The Committee Substitute for **HB 34** is as follows:

HB 34, AN ACT relating to conveyance of real estate by local governments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 65.010 is amended to read as follows:

Any *local government* [city or county] may sell and convey any real estate owned by it upon a determination by the legislative body of such governmental unit that said real estate is no longer needed to carry on the governmental functions of the *local government* [city or county] or that other property is more suitable for the governmental purpose to which the property to be sold and conveyed has been dedicated. *Any local government may sell and convey, for a price which may be nominal, any real estate owned by it to any person or non-profit corporation if such person or corporation shall agree, as a condition of such sale, to assist in programs of residential neighborhood rehabilitation and maintenance through local government specified improvements to or use of such real estate.* The *local government* [city or county] may make such disposition of its property regardless of a previous dedication of said property whether the dedication was created by virtue of use, deed, ordinance or by any other manner. This section shall not apply to any public street, sidewalk, right of way or other easement.

Section 2. KRS 82.060 is amended to read as follows:

(1) All cities are hereby authorized to sell any real estate owned by them and surplus to their needs, including property acquired for or held in trust for park purposes, whether by purchase or by grant, when the public purpose to which said real estate has been dedicated has been abandoned, or is no longer needed or suitable for such purposes.

(2) Before any real estate acquired for or held in trust for park purposes shall be offered for sale it must be determined by ordinance that such real estate is no longer needed or suitable for park purposes, and the proceeds of sale thereof shall be reinvested by the city in other park property or to the improvement of existing parks, and the purchaser shall not be required to look to the application of the proceeds of such sale; Provided, however, no part of the proceeds of such sale shall be reinvested in other park property used, or to be used, for a zoo or zoological gardens.

(3) Any city or urban county government may sell and convey, for a price which may be nominal, any real estate owned by it to any person or non-profit corporation if such person or corporation shall agree, as a condition of such sale, to assist in programs of residential neighborhood rehabilitation and maintenance through government specified improvements to or use of such real estate.

HB 62, AN ACT relating to the control of insect, animal and other related pests.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 249.350 is amended to read as follows:

(1) As used in this section, unless the context requires otherwise:

(a) "Commissioner" means that as defined in subsection (1) of section 249.010 of the Kentucky Revised Statutes.

(b) "Department" means that as defined in subsection (2) of section 249.010 of the Kentucky Revised Statutes.

(c) "Director" means that as defined in subsection (3) of section 249.010 of the Kentucky Revised Statutes.

(2) When it appears to the commissioner, *or upon request of the mayor of any city or the county judge of any county,* that mosquitoes, *other insects, birds, animals, or other similar pests,* are present in any area of the state in sufficient numbers to warrant action, he shall conduct an immediate investigation of the causes thereof, and corrective measures necessary. The commissioner shall undertake the control and elimination of *the* mosquitoes, *other insects, birds, animals, or other similar pests* in such area, utilizing whatever measures appear necessary so long as such methods in no wise damage the property of any person, and do not constitute a menace to the health of persons or livestock.

The Committee Amendment to **HB 62** is as follows:

Amend printed copy of House Bill 62 on page 1, line 15 after the word "mosquitoes," delete the remainder of the line and in lieu thereof insert the following: "blackbirds, starlings and grackel,"

and on page 1, line 16 strike from the beginning of the line through the word "pests"

and on page 2, line 2 after the word "mosquitoes," strike the remainder of the line and in lieu thereof insert the following: "blackbirds, starlings and grackel"

and on page 2, line 3 strike from the beginning of the line through the word "pests".

HB 252, AN ACT relating to city, county or urban county governments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 65 is created to read as follows:

Any public improvement assessment bill issued by a city, county or urban county government shall indicate clearly the amount of the payment which is not being used for reducing principal but rather for the payment of interest.

HB 358, AN ACT changing the classification of the City of Bloomfield, in Nelson County.

WHEREAS, satisfactory information has been presented to the General Assembly that the population of the City of Bloomfield, in Nelson County, is such as to justify its being classified as a city of the fifth class,

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

The City of Bloomfield, in Nelson County, is transferred from the sixth to the fifth class of cities.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Judiciary-Statutes: **HB 453, HB 446.**

Motions, Petitions and Communications (continued)

Representative DeFalaise moved that **HB 204** be withdrawn. Agreed.

Orders of the Day

Representative B. Richardson moved that consideration of **HB 261** be deferred and that it retain its position in Orders of the Day. Agreed.

HB 76 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Little moved the adoption of the following Floor Amendment No. 3 to **HB 76:**

Amend printed copy of House Bill 76 on page 1, line 7, by adding "academic, rather than technical," following the words "sophomore level"

and on page 2, line 3: by adding thereafter the following:

"Nothing herein shall be construed or interpreted to change, reduce, or otherwise affect the required distribution between lower division and upper division courses now required for matriculation in an undergraduate program at any institution of higher education."

Agreed.

Representative Blume moved the adoption of the following Floor Amendment No. 2 to **HB 76:**

Amend printed copy of House Bill 76 on page 1, line 9, by inserting after the word "universities" the words "and the Council on Public Higher Education"

On the roll call the vote was yeas 75-B. Adams, A. S. Adams, W. Allen, Arnold, Bendl, Benson, Beshear, Bevins, Blume, Blythe, Boatwright, Brinkley, Brown, Bruce, Carpenter, Clarke, Cooper, Craddock, Crupper, Cyrus, DeFalaise, DeMarcus, Denham, Deskins, Dietz, Donnermeyer, Doss, Fitzgerald, Foster, Freeman, Gay, Givhan, Gray, Guenthner, Head, Holbrook, Holloway, Hopkins, Hughes, Imes, Isler, Kenton, Kidd, King, Kleier, LeMaster, Lindsay, Little, Mann, Mason, May, Maynard, McBee, McBride, McGill, Muncy, Nett, O'Brien, Overstreet, Pearl, Richards, B. Richardson, Robinson, Sale, Schmidt, Siemens, Siler, Stewart, Tobin, J. Turner, Vincent, Wible, Wooden, Wright, Yates. Nays 5-Bennett, Blandford, Dunn, Priddy, Thomas.

The Floor Amendment No. 2 to **HB 76** was adopted.

Representative Little moved that **HB 76,** as amended, be passed.

On the roll call the vote was yeas 85-B. Adams, A. S. Adams, J. Allen, W. Allen, Arnold, Bendl, Benson, Beshear, Bevins, Blair, Blandford, Blume, Blythe, Boatwright, Brinkley, Brown, Bruce, Burnette, Carpenter, Cooper, Craddock, Crupper, Cyrus, Dawahare, DeFalaise, DeMarcus, Denham, Deskins, Dietz, Donnermeyer, Doss, Fitzgerald, Foster, Freeman, Gay, Givhan, Gray, Guenthner, Hancock, Hardwick, Head, Holbrook, Holloway, Hopkins, Hurst, Imes, Isler, Kenton, Kidd, King, Kleier, LeMaster, Lindsay, Little, Mann, Mason, May, Maynard, McBee, McBride, McGill, Morris, Muncy, Nett, O'Brien, Overstreet, Pearl, Priddy, Rattliff, Richards, B. Richardson, Robinson, Sale, Schmidt, Siemens, Siler, Stewart, Tobin, Thomas, J. Turner, Vincent, Wells, Wible, Wooden, Wright, Yates. Nays 3-Dunn, Priddy, Romines.

HB 76, as amended, was passed and the title agreed to.

Representative Little moved that the vote by which **HB 76,** as amended, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 269, with Committee Substitute attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative B. Richardson moved the adoption of the Committee Substitute for **HB 269.** Agreed.

Representative Hardwick moved that **HB 269,** by way of Committee Substitute, be passed.

On the roll call the vote was yeas 85-Ackerson, B. Adams, A. S. Adams, J. Allen, W. Allen, Arnold, Bennett, Benson, Beshear, Bevins, Blair, Blandford, Blythe, Boatwright, Brinkley, Brown, Bruce, Burnette, Carpenter, Clarke, Cooper, Craddock, Crupper, Cyrus, Dawahare, DeFalaise, DeMarcus, Denham, Deskins, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Foster, Freeman, Gay, Givhan, Gray, Guenthner, Hancock, Hardwick, Head, Holbrook, Holloway, Hopkins, Hughes, Imes, Isler, Kenton, Kidd, King, LeMaster, Lindsay, Little, Mann, Mason, May, Maynard, McGill, Morris, Muncy, Nett, O'Brien, Overstreet, Pearl, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Robinson, Romines, Sale, Schmidt, Siemens, Siler, Tobin, Thomas, Vincent, Wells, White, Wible, Wooden, Yates. Nays 6-McBee, McBride, Morgan, Stewart, J. Turner, Wright.

HB 269, by way of Committee Substitute, was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **HB 269,** by way of Committee Substitute, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 83, with Committee Substitute attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Mason moved the adoption of the Committee Substitute for **HB 83.** Agreed.

Representative Mason moved that **HB 83,** by way of Committee Substitute, be passed.

Representative Morgan moved that **HB 83,** by way of Committee Substitute, be laid on the Clerk's desk.

On the roll call the vote was yeas 74-Ackerson, B. Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blandford, Blume, Brinkley, Brown, Bruce, Burnette, Carpenter, Clarke, Cooper, Craddock, Crupper, Cyrus, Dawahare, DeMarcus, Denham, Deskins, Donnermeyer, Doss, Dunn, Fitzgerald, Foster, Gay, Givhan, Gray, Guenthner, Hardwick, Holbrook, Holloway, Hopkins, Hughes, Hurst, Isler, Kenton, King, Kleier, LeMaster, Lindsay, Mason, May, McBee, McBride, McGill, Morgan, Muncy, Nett, O'Brien, Overstreet, Pearl, Priddy, Rattliff, Richards, B. Richardson, Robinson, Schmidt, Siemens, Siler, Stewart, J. Turner, Wells, White, Wible, Wooden, Wright. Nays 12-Blythe, DeFalaise, Dietz, Hancock, Head, Imes, Maynard, Morris, Sale, Tobin, Vincent Yates.

The motion that **HB 83,** by way of Committee Substitute, be laid on the Clerk's desk was adopted.

Senate Message

Announcing passage of **HB 254.**

Orders of the Day (continued)

HB 111 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Bennett moved that **HB 111** be passed.

Representative Bennett moved that the previous motion be withdrawn and that consideration of **HB 111** be deferred and that it retain its position in Orders of the Day. Agreed.

HB 319 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Denham moved that **HB 319** be recommitted to the Committee on Appropriations and Revenue for fiscal analysis. Agreed.

HB 337 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

On the roll call the vote was yeas 69-Ackerson, B. Adams, Arnold, Bendl, Bennett, Benson, Beshear, Blair, Blandford, Blume, Blythe, Boatwright, Brinkley, Brown, Bruce, Burnette, Carpenter, Clarke, Cooper, Craddock, Cyrus, DeFalaise, DeMarcus, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Foster, Gay, Givhan, Gray, Hancock, Hardwick, Head, Isler, Kenton, Kidd, Kleier, LeMaster, Lindsay, Mann, Maynard, McBee, McBride, McGill, Morgan, Morris, Muncy, Nett, O'Brien, Pearl, Priddy, Richards, B. Richardson, Romines, Sale, Schmidt, Siemens, Siler, Stewart, Tobin, J. Turner, Vincent, Wells, Wible, Wooden, Wright, Yates. Nays 16-W. Allen, Crupper, Dawahare, Deskins, Guenthner, Holbrook, Holloway, Hopkins, Hughes, Imes, King, Mason, Overstreet, P. Richardson, Robinson, Thomas.

HB 337 was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **HB 337** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Announcements

The following meetings were announced:

Health and Welfare, special meeting, February 11, 1976, 9:00 a.m., Room 305A.

Appropriations and Revenue, budget hearings, February 11, 1976, Senate Chamber, 10:30 a.m.

Appropriations and Revenue, regular meeting, February 11, 1976, 8:00 a.m.-10:30 a.m.

The following members filed requests with the Clerk to have their names added as co-sponsors of Bills and Resolutions: Representative Bendl, **HB 282;** Representative Muncy, **HJR 24;** Representative Romines, **HB 85.**

Report on Enrolled Bills

The Committee on Enrollment reported **HB 254** and **HB 79** had been examined and found correctly enrolled. **HB 254** and **HB 79** read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate.

HB 254 and **HB 79** delivered to the Senate, signed by President. Ordered delivered to the Governor.

Adjournment

Representative B. Richardson moved that the House adjourn until 2:00 p.m., Wednesday, February 11, 1976.

On the roll call the vote was yeas 57-B. Adams, A. S. Adams, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blume, Brinkley, Burnette, Carpenter, Craddock, Crupper, Dawahare, DeFalaise, Denham, Dietz, Doss, Dunn, Foster, Givhan, Hancock, Hardwick, Head, Holbrook, Holloway, Hughes, Isler, Kenton, Kidd, King, Kleier, LeMaster, Lindsay, Mason, May, Maynard, McBride, McGill, Nett, O'Brien, Overstreet, Pearl, Rattliff, Robinson, Sale, Schmidt, Siemens, Siler, Tobin, Thomas, Vincent, Wells, Wible, Yates. Nays 14-Brown, Clarke, Deskins, Fitzgerald, Gray, Guenthner, Imes, Little, Mann, Priddy, Richards, B. Richardson, P. Richardson, Wright.

The motion to adjourn was adopted.

WEDNESDAY, FEBRUARY 11, 1976

TWENTY-NINTH LEGISLATIVE DAY

The House was called to order by Speaker Kenton.

Prayer by Reverend J. T. Harmon, First Methodist Church, Frankfort.

The roll was called. All present except Representative Clapp.

Representative Isler moved that absent members be granted leave of absence in accordance with the prevailing rules of the House. Agreed.

Representative Hughes moved that the reading of the Journal of February 10, 1976, be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HR 48, by Representatives McBee, McBride, Blume, Denham, Donnermeyer, Freeman, Kleier, Lindsay, Schmidt, and Wright: A RESOLUTION in memory of Dan Roberts.

HR 49, by Representative Freeman: A RESOLUTION directing a study of the lifeline telephone service.

HB 508, by Representative Imes: AN ACT relating to the operation of motor vehicles.

HB 509, by Representatives Hurst and Denham: AN ACT relating to home health care.

HB 510, by Representative Wible: AN ACT relating to Workmen's Compensation.

HB 511, by Representatives Freeman, Blair, Burnette, Cooper, Gay, and R. Turner: AN ACT relating to appropriations and the disbursement of appropriations.

HB 512, by Representative Freeman: AN ACT relating to motor vehicles.

HB 513, by Representatives Dunn nd Maynard: AN ACT relating to public employes.

HB 514, by Representatives Crupper, Stephens, Denham, Dietz, Cooper, Muncy, and P. Richardson: AN ACT relating to county law libraries.

HB 515, by Representative Brinkley: AN ACT relating to the registration of motor vehicles.

HB 516, by Representatives Romines, Priddy, Ackerson, W. Allen, Bennett, Boatwright, Brinkley, Burnette, Cooper, Cyrus, Deskins, Doss, Dunn, Gay, Gray, Guenthner, Hardwick, Holloway, Hughes, Imes, Little, O'Brien, Siler, Stewart, J. Turner, and Yates: AN ACT relating to the transportation of pupils.

HB 517, by Representatives B. Richardson, Clarke, and Imes; AN ACT relating to revenue and taxation.

Senate Message

Announcing passage of **SB 122** and **SJR 11.**

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Natural Resources: **HB 490.**

Appropriations and Revenue: **HB 492, HB 494, HB 502, HB 504.**

Business Organizations and Professions: **HB 493, SB 75.**

Counties and Special Districts: **HB 491**

Education: **HB 501, HB 505.**

Health and Welfare: **HB 500.**

Highways and Traffic Safety: **HB 498.**

Judiciary-Statutes: **HB 496, HB 497.**

Public Utilities and Transportation: **HB 503.**

State Government: **HB 495, HB 499, HB 506, HB 507, HJR 46, HR 47, SB 100, SB 101.**

Report of Committees

The Committee on Appropriations and Revenue reported **HB 5,** with Committee Substitute and Committee Amendment to the Committee Substitute attached thereto, **HB 210,** and **HB 255** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 5, AN ACT relating to legislative approval of state bond issuances and sales.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 56.496 is created to read as follows:
Notwithstanding the provisions of KRS 56.495, prior to the issuance and sale of definitive bonds or temporary bonds, or the securing of interim financing through bond anticipation notes, loan agreements or by any other means, the board of the state college or of the university shall first obtain approval of the General Assembly sitting in regular or special session. This approval shall be by a joint resolution, which shall identify the project to be funded as well as the source and amount of funds, and by appropriation of the first year's debt service.

Section 2. KRS 56.521 is created to read as follows:
Notwithstanding the provisions of KRS 56.520, prior to the issuance and sale of definitive bonds or temporary bonds, or the securing of interim financing through bond anticipation notes, loan agreements or by any other means, the commission shall first obtain approval of the General Assembly sitting in regular or special session. This approval shall be by a joint resolution, which shall identify the project to be funded as well as the source and amount of funds, and by appropriation of the first year's debt service.

Section 3. KRS 58.021 is created to read as follows:
Notwithstanding the provisions of KRS 58.020, prior to the issuance and sale of definitive bonds or temporary bonds, or the securing of interim financing through bond anticipation notes, loan agreements or by any other means, any department or agency of the state government shall first obtain approval of the General Assembly sitting in regular or special session. This approval shall be by a joint resolution, which shall identify the project to be funded as well as the source and amount of funds, and by appropriation of the first year's debt service.

Section 4. KRS 58.236 is created to read as follows:

Notwithstanding the provisions of KRS 58.235, prior to the issuance and sale of definitive bonds or temporary bonds, or the securing of interim financing through bond anticipation notes, loan agreements or by any other means, the authority shall first obtain approval of the General Assembly sitting in regular or special session. This approval shall be by a joint resolution, which shall identify the project to be funded as well as the source and amount of funds, and by appropriation of the first year's debt service.

Section 5. KRS 151.421 is created to read as follows:

Notwithstanding the provisions of KRS 151.420, prior to the issuance and sale of definitive bonds or temporary bonds, or the securing of interim financing through bond anticipation notes, loan agreements or by any other means, the authority shall first obtain approval of the General Assembly sitting in regular or special session. This approval shall be by a joint resolution, which shall identify the project to be funded as well as the source and amount of funds, and by appropriation of the first year's debt service.

Section 6. KRS 175.501 is created to read as follows:

Notwithstanding the provisions of KRS 175.500, prior to the issuance and sale of definitive bonds or temporary bonds, or the securing of interim financing through bond anticipation notes, loan agreements or by any other means, the authority shall first obtain approval of the General Assembly sitting in regular or special session. This approval shall be by a joint resolution, which shall identify the project to be funded as well as the source and amount of funds, and by appropriation of the first year's debt service.

Section 7. KRS 177.451 is created to read as follows:

Notwithstanding the provisions of KRS 177.450, prior to the issuance and sale of definitive bonds or temporary bonds, or the securing of interim financing through bond anticipation notes, loan agreements or by any other means, the bureau shall first obtain approval of the General Assembly sitting in regular or special session. This approval shall be by a joint resolution, which shall identify the project to be funded as well as the source and amount of funds, and by appropriation of the first year's debt service.

Section 8. KRS 180.071 is created to read as follows:

Notwithstanding the provisions of KRS 180.070, prior to the issuance and sale of definitive bonds or temporary bonds, or the securing of interim financing through bond anticipation notes, loan agreements or by any other means, the bureau shall first obtain approval of the General Assembly sitting in regular or special session. This approval shall be by a joint resolution, which shall identify the project to be funded as well as the source and amount of funds, and by appropriation of the first year's debt service.

Section 9. KRS 198A.091 is created to read as follows:

Notwithstanding the provisions of KRS 198A.090, prior to the issuance and sale of definitive bonds or temporary bonds, or the securing of interim financing through bond anticipation notes, loan agreements or by any other means, the corporation shall first obtain approval of the General Assembly sitting in regular or special session. This approval shall be by a joint resolution, which shall identify the project to be funded as well as the source and amount of funds, and by appropriation of the first year's debt service.

Section 10. KRS 216.814 is created to read as follows:

Notwithstanding the provisions of KRS 216.813, prior to the issuance and sale of definitive bonds or temporary bonds, or the securing of interim financing through bond anticipation notes, loan agreements or by any other means, the authority shall first obtain approval of the General Assembly sitting in regular or special session. This approval shall be by a joint resolution, which shall identify the project to be funded as well as the source and amount of funds, and by appropriation of the first year's debt service.

Section 11. KRS 224A.121 is created to read as follows:

Notwithstanding the provisions of KRS 224A.120, prior to the issuance and sale of definitive bonds or temporary bonds, or the securing of interim financing through bond anticipation notes, loan agreements or by any other means, the authority shall first obtain approval of the General Assembly sitting in regular or special session. This approval shall be by a joint resolution, which shall identify the project to be funded as well as the source and amount of funds, and by appropriation of the first year's debt service.

Section 12. KRS 247.181 is created to read as follows:

Notwithstanding the provisions of KRS 247.180, prior to the issuance and sale of definitive bonds or temporary bonds, or the securing of interim financing through bond anticipation notes, loan agreements or by any other means, the state fair board shall first obtain approval of the General Assembly sitting in regular or special session. This approval shall be by a joint resolution, which shall identify the project to be funded as well as the source and amount of funds, and by appropriation of the first year's debt service.

The Committee Substitute for **HB 5** is as follows:

HB 5, AN ACT relating to legislative approval of state bond issuances and sales.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. KRS 56.496 IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding the provisions of KRS 56.495, prior to the issuance and sale of definitive bonds or temporary bonds, or the securing of interim financing through bond anticipation notes, loan agreements or by any other means, the board of the state college or of the university shall first obtain approval of the General Assembly sitting in regular or special session. This approval shall be by a joint resolution, which shall identify the project to be funded as well as the source and amount of funds, and by appropriation of the first year's debt service.

(2) The provisions of paragraph (1) of this section shall not apply when the project for which funds are sought is certified to produce revenues sufficient to fully meet debt service so that no appropriation of state funds will be required. Such certification shall be made in writing by the Commissioner of the Executive Department for Finance and Administration to the head of the issuing agency or authority with a copy to the Governor and the Legislative Research Commission. The certification shall be submitted not more than 60 days prior to obligation of the state debt.

SECTION 2. KRS 56.521 IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding the provisions of KRS 56.520, prior to the issuance and sale of definitive bonds or temporary bonds, or the securing of interim financing through bond anticipation notes, loan agreements or by any other means, the commission shall first obtain approval of the General Assembly sitting in regular or special session. This approval shall be by a joint resolution, which shall identify the project to be funded as well as the source and amount of funds, and by appropriation of the first year's debt service.

(2) The provisions of paragraph (1) of this section shall not apply when the project for which funds are sought is certified to produce revenues sufficient to fully meet debt service so that no appropriation of state funds will be required. Such certification shall be made in writing by the Commissioner of the Executive Department for Finance and Administration to the head of the issuing agency or authority with a copy to the Governor and the Legislative Research Commission. The certification shall be submitted not more than 60 days prior to obligation of the state debt.

SECTION 3. KRS 58.021 IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding the provisions of KRS 58.020, prior to the issuance and sale of definitive bonds or temporary bonds, or the securing of interim financing through bond anticipation notes, loan agreements or by any other means, any department or agency of the state government shall first obtain approval of the General Assembly sitting in regular or special session. This approval shall be by a joint resolution, which shall identify the project to be funded as well as the source and amount of funds, and by appropriation of the first year's debt service.

(2) The provisions of paragraph (1) of this section shall not apply when the project for which funds are sought is certified to produce revenues sufficient to fully meet debt service so that no appropriation of state funds will be required. Such certification shall be made in writing by the Commissioner of the Executive Department for Finance and Administration to the head of the issuing agency or authority with a copy to the Governor and the Legislative Research Commission. The certification shall be submitted not more than 60 days prior to obligation of the state debt.

SECTION 4. KRS 58.236 IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding the provisions of KRS 58.235, prior to the issuance and sale of definitive bonds or temporary bonds, or the securing of interim financing through bond anticipation notes, loan agreements or by any other means, the authority shall first obtain approval of the General Assembly sitting in regular or special session. This approval shall be by a joint resolution, which shall identify the project to be funded as well as the source and amount of funds, and by appropriation of the first year's debt service.

(2) The provisions of paragraph (1) of this section shall not apply when the project for which funds are sought is certified to produce revenues sufficient to fully meet debt service so that no appropriation of state funds will be required. Such certification shall be made in writing by the Commissioner of the Executive Department for Finance and Administration to the head of the issuing agency or authority with a copy to the

Governor and the Legislative Research Commission. The certification shall be submitted not more than 60 days prior to obligation of the state debt.

SECTION 5. KRS 151.421 IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding the provisions of KRS 151.420, prior to the issuance and sale of definitive bonds or temporary bonds, or the securing of interim financing through bond anticipation notes, loan agreements or by any other means, the authority shall first obtain approval of the General Assembly sitting in regular or special session. This approval shall be by a joint resolution, which shall identify the project to be funded as well as the source and amount of funds, and by appropriation of the first year's debt service.

(2) The provisions of paragraph (1) of this section shall not apply when the project for which funds are sought is certified to produce revenues sufficient to fully meet debt service so that no appropriation of state funds will be required. Such certification shall be made in writing by the Commissioner of the Executive Department for Finance and Administration to the head of the issuing agency or authority with a copy to the Governor and the Legislative Research Commission. The certification shall be submitted not more than 60 days prior to obligation of the state debt.

SECTION 6. KRS 175.501 IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding the provisions of KRS 175.500, prior to the issuance and sale of definitive bonds or temporary bonds, or the securing of interim financing through bond anticipation notes, loan agreements or by any other means, the authority shall first obtain approval of the General Assembly sitting in regular or special session. This approval shall be by a joint resolution, which shall identify the project to be funded as well as the source and amount of funds, and by appropriation of the first year's debt service.

(2) The provisions of paragraph (1) of this section shall not apply when the project for which funds are sought is certified to produce revenues sufficient to fully meet debt service so that no appropriation of state funds will be required. Such certification shall be made in writing by the Commissioner of the Executive Department for Finance and Administration to the head of the issuing agency or authority with a copy to the Governor and the Legislative Research Commission. The certification shall be submitted not more than 60 days prior to obligation of the state debt.

SECTION 7. KRS 177.451 IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding the provisions of KRS 177.450, prior to the issuance and sale of definitive bonds or temporary bonds, or the securing of interim financing through bond anticipation notes, loan agreements or by any other means, the bureau shall first obtain approval of the General Assembly sitting in regular or special session. This approval shall be by a joint resolution, which shall identify the project to be funded as well as the source and amount of funds, and by appropriation of the first year's debt service.

(2) The provisions of paragraph (1) of this section shall not apply when the project for which funds are sought is certified to produce revenues sufficient to fully meet debt service so that no appropriation of state funds will be required. Such certification shall be made in writing by the Commissioner of the Executive Department for Finance and Administration to the head of the issuing agency or authority with a copy to the Governor and the Legislative Research Commission. The certification shall be submitted not more than 60 days prior to obligation of the state debt.

SECTION 8. KRS 180.071 IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding the provisions of KRS 180.070, prior to the issuance and sale of definitive bonds or temporary bonds, or the securing of interim financing through bond anticipation notes, loan agreements or by any other means, the bureau shall first obtain approval of the General Assembly sitting in regular or special session. This approval shall be by a joint resolution, which shall identify the project to be funded as well as the source and amount of funds, and by appropriation of the first year's debt service.

(2) The provisions of paragraph (1) of this section shall not apply when the project for which funds are sought is certified to produce revenues sufficient to fully meet debt service so that no appropriation of state funds will be required. Such certification shall be made in writing by the Commissioner of the Executive Department for Finance and Administration to the head of the issuing agency or authority with a copy to the Governor and the Legislative Research Commission. The certification shall be submitted not more than 60 days prior to obligation of the state debt.

SECTION 9. KRS 198A.091 IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding the provisions of KRS 198A.090, prior to the issuance and sale of definitive bonds or temporary bonds, or the securing of interim financing through bond anticipation notes, loan agreements or by any other means, the corporation shall first obtain approval of the General Assembly sitting in regular or special session. This approval shall be by a joint resolution, which shall identify the project to be funded as well as the source and amount of funds, and by appropriation of the first year's debt service.

(2) The provisions of paragraph (1) of this section shall not apply when the project for which funds are sought is certified to produce revenues sufficient to fully meet debt service so that no appropriation of state funds will be required. Such certification shall be made in writing by the Commissioner of the Executive Department for Finance and Administration to the head of the issuing agency or authority with a copy to the Governor and the Legislative Research Commission. The certification shall be submitted not more than 60 days prior to obligation of the state debt.

SECTION 10. KRS 216.814 IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding the provisions of KRS 216.813, prior to the issuance and sale of definitive bonds or temporary bonds, or the securing of interim financing through bond anticipation notes, loan agreements or by any other means, the authority, shall first obtain approval of the General Assembly sitting in regular or special session. This approval shall be by a joint resolution, which shall identify the project to be funded as well as the source and amount of funds, and by appropriation of the first year's debt service.

(2) The provisions of paragraph (1) of this section shall not apply when the project for which funds are sought is certified to produce revenues sufficient to fully meet debt service so that no appropriation of state funds will be required. Such certification shall be made in writing by the Commissioner of the Executive Department for Finance and Administration to the head of the issuing agency or authority with a copy to the Governor and the Legislative Research Commission. The certification shall be submitted not more than 60 days prior to obligation of the state debt.

SECTION 11. KRS 224A.121 IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding the provisions of KRS 224A.120, prior to the issuance and sale of definitive bonds or temporary bonds, or the securing of interim financing through bond anticipation notes, loan agreements or by any other means, the authority shall first obtain approval of the General Assembly sitting in regular or special session. This approval shall be by a joint resolution, which shall identify the project to be funded as well as the source and amount of funds, and by appropriation of the first year's debt service.

(2) The provisions of paragraph (1) of this section shall not apply when the project for which funds are sought is certified to produce revenues sufficient to fully meet debt service so that no appropriation of state funds will be required. Such certification shall be made in writing by the Commissioner of the Executive Department for Finance and Administration to the head of the issuing agency or authority with a copy to the Governor and the Legislative Research Commission. The certification shall be submitted not more than 60 days prior to obligation of the state debt.

SECTION 12. KRS 247.181 IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding the provisions of KRS 247.180, prior to the issuance and sale of definitive bonds or temporary bonds, or the securing of interim financing through bond anticipation notes, loan agreements or by any other means, the state fair board shall first obtain approval of the General Assembly sitting in regular or special session. This approval shall be by a joint resolution, which shall identify the project to be funded as well as the source and amount of funds, and by appropriation of the first year's debt service.

(2) The provisions of paragraph (1) of this section shall not apply when the project for which funds are sought is certified to produce revenues sufficient to fully meet debt service so that no appropriation of state funds will be required. Such certification shall be made in writing by the Commissioner of the Executive Department for Finance and Administration to the head of the issuing agency or authority with a copy to the Governor and the Legislative Research Commission. The certification shall be submitted not more than 60 days prior to obligation of the state debt.

SECTION 13. KRS 65.271 IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding the provisions of KRS 65.270, prior to the issuance and sale of definitive bonds or temporary bonds, or the securing of interim financing through bond anticipation notes, loan agreements or by any other means, any agency of the state government shall first obtain approval of the General Assembly sitting in regular or special session. This approval shall be by a joint resolution, which shall identify the project to be funded as well as the source and amount of funds, and by appropriation of the first year's debt service.

(2) The provisions of paragraph (1) of this section shall not apply when the project for which funds are sought is certified to produce revenues sufficient to fully meet debt service so that no appropriation of state funds will be required. Such certification shall be made in writing by the Commissioner of the Executive Department for Finance and Administration to the head of the issuing agency or authority with a copy to the Governor and the Legislative Research Commission. The certification shall be submitted not more than 60 days prior to obligation of the state debt.

SECTION 14. KRS 117.416 IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding the provisions of KRS 117.415 and 117.425, prior to the issuance and sale of definitive bonds or temporary bonds, or the securing of interim financing through bond anticipation notes, loan agreements or by any other means, the commission shall first obtain approval of the General Assembly sitting in regular or special session. This approval shall be by a joint resolution, which shall identify the project to be funded as well as the source and amount of funds, and by appropriation of the first year's debt service.

(2) The provisions of paragraph (1) of this section shall not apply when the project for which funds are sought is certified to produce revenues sufficient to fully meet debt service so that no appropriation of state funds will be required. Such certification shall be made in writing by the Commissioner of the Executive Department for Finance and Administration to the head of the issuing agency or authority with a copy to the Governor and the Legislative Research Commission. The certification shall be submitted not more than 60 days prior to obligation of the state debt.

SECTION 15. KRS 150.611 IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding the provisions of KRS 150.610, prior to the issuance and sale of definitive bonds or temporary bonds, or the securing of interim financing through bond anticipation notes, loan agreements or by any other means, the department shall first obtain approval of the General Assembly sitting in regular or special session. This approval shall be by a joint resolution, which shall identify the project to be funded as well as the source and amount of funds, and by appropriation of the first year's debt service.

(2) The provisions of paragraph (1) of this section shall not apply when the project for which funds are sought is certified to produce revenues sufficient to fully meet debt service so that no appropriation of state funds will be required. Such certification shall be made in writing by the Commissioner of the Executive Department for Finance and Administration to the head of the issuing agency or authority with a copy to the Governor and the Legislative Research Commission. The certification shall be submitted not more than 60 days prior to obligation of the state debt.

SECTION 16. KRS 164.861 IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding the provisions of KRS 164.860, prior to the issuance and sale of definitive bonds or temporary bonds, or the securing of interim financing through bond anticipation notes, loan agreements or by any other means, the board of trustees shall first obtain approval of the General Assembly sitting in regular or special session. This approval shall be by a joint resolution, which shall identify the project to be funded as well as the source and amount of funds, and by appropriation of the first year's debt service.

(2) The provisions of paragraph (1) of this section shall not apply when the project for which funds are sought is certified to produce revenues sufficient to fully meet debt service so that no appropriation of state funds will be required. Such certification shall be made in writing by the Commissioner of the Executive Department for Finance and Administration to the head of the issuing agency or authority with a copy to the Governor and the Legislative Research Commission. The certification shall be submitted not more than 60 days prior to the obligation of the state debt.

SECTION 17. KRS 183.631 IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding the provisions of KRS 183.630, prior to the issuance and sale of definitive bonds or temporary bonds, or the securing of interim financing through bond anticipation notes, loan agreements or by any other means, the department shall first obtain approval of the General Assembly sitting in regular or special session. This approval shall be by a joint resolution, which shall identify the project to be funded as well as the source and amount of funds, and by appropriation of the first year's debt service.

(2) The provisions of paragraph (1) of this section shall not apply when the project for which funds are sought is certified to produce revenues sufficient to fully meet debt service so that no appropriation of state funds will be required. Such certification shall be made in writing by the Commissioner of the Executive Department for Finance and Administration to the head of the issuing agency or authority with a copy to the Governor and the Legislative Research Commission. The certification shall be submitted not more than 60 days prior to obligation of the state debt.

The Committee Amendment to the Committee Substitute for **HB 5** is as follows:

Amend printed copy of Committee Substitute for House Bill 5, page 16, on line 11, by adding the following:

Section 18. The Executive Branch shall not execute any long-term cost sharing contracts with the U. S. Army Corps of Engineers without first having obtained the approval of the General Assembly by joint resolution.

HB 210, AN ACT relating to the deposit of state funds for examination of insurance companies.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 304.2-300 is amended to read as follows:

(1) *There is created in the State Treasury the "examination expense revolving fund" for the use of the Department.* The Commissioner shall promptly deposit all funds received under KRS 304.2-290 with the State Treasurer to the credit of *such fund* [the general expenditure fund].

(2) Moneys for travel, per diem, compensation and other necessary and authorized expenses incurred by an examiner or other department representative in the examination of any person required to pay, and making payment of, the expense of examination pursuant to KRS 304.2-290 shall be paid out of the examination expense revolving fund, upon approval of the Commissioner.

(3) If any amount in such revolving fund remains unexpended at the end of any fiscal year, that amount shall not lapse, but shall remain credited to the account and may be used during the succeeding year or years.

Section 2. This Act shall become effective on July 1, 1976.

HB 255, AN ACT relating to Franklin Circuit Court.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 28.165 is amended to read as follows:

(1) The clerk of the state fiscal court, to-wit; The clerk of the Franklin Circuit Court, is authorized to make requisition upon the division of purchases of the commonwealth of Kentucky for the necessary office equipment, files and supplies for the accommodation and preservation of suits and records in fiscal cases filed in the Franklin Circuit Court by and against the commonwealth of Kentucky and the departments thereof.

(2) It shall be the duty of the director of the division of purchases to procure said supplies and equipment ordered and forward them to the clerk of the Franklin Circuit Court when such order and requisition has been authorized and approved by the judges of the Franklin Circuit Court.

(3) The director of the division of purchases shall certify the costs of said supplies and equipment to the Executive Department for Finance and Administration of the Commonwealth of Kentucky for payment, and it shall be the duty of the Executive Department for Finance and Administration to pay for said equipment and supplies not to exceed *$1,000* [$300] per annum out of the general fund revenue not appropriated for other purposes.

The Committee on Business Organizations and Professions reported **HB 24** with the expression of opinion that the same should pass. Ordered delivered to the Committee on Rules.

The Committee on Business Organizations and Professions reported **HB 25, HB 301,** and **SB 68** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 25, AN ACT relating to unclaimed pari-mutuel tickets of thoroughbred race meetings.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 230.340 is amended to read as follows:

(1) The commission shall adopt rules governing and regulating mutuel wagering on thoroughbred races and Appaloosa races at a thoroughbred race meeting under what is known as the pari-mutuel system of wagering. Such wagering shall be conducted only by a person licensed under KRS 230.210 to 230.360 to conduct a thoroughbred race meeting and only upon the licensed premises and on the dates and hours for which racing has been authorized by the commission. The pari-mutuel system of wagering shall be operated only by a totalizator or other mechanical equipment approved by the commission. The commission shall not require any particular make of equipment.

(2) In no event shall the operation of a pari-mutuel system for betting where authorized by law constitute grounds for the revocation or suspension of any license issued and held under KRS 230.350.

(3) All reported but unclaimed pari-mutuel winning tickets held in this state by any person or association operating a pari-mutuel or similar system of betting at thoroughbred race meetings shall be presumed abandoned [within the meaning of KRS chapter 393,] if not claimed by the person entitled thereto within two (2) years from the time the ticket became payable.

Section 2. A new section of KRS Chapter 230 is created to read as follows:
Beginning July 1, 1976, any person holding unclaimed pari-mutuel winning tickets presumed abandoned under the provisions of KRS 230.340 shall file annually, on or before September 1 of each year, with the office of the commission a list of and the amounts represented by unclaimed pari-mutuel tickets held by such person as of July 1, and such other information as the commission may require for the administration of this Act. The report shall be made in duplicate; the original shall be retained by the commission and the copy shall be mailed to the sheriff of the county where the unclaimed pari-mutuel tickets are held. It shall be the duty of the sheriff to post for not less than twenty (20) consecutive days said copy on the courthouse door or the courthouse bulletin board, and to publish said copy in the manner set forth by KRS Chapter 424. The cost of the publication shall be paid by the commission. The sheriff shall immediately certify in writing to the commission the dates when the list was posted and published. The list shall be posted and published as required on or before October 1 of the year when it is made, and such posting and publishing shall be constructive notice to all holders of pari-mutuel tickets which have remained unclaimed for a period of two (2) years from the time the ticket became payable.

Section 3. A new section of KRS Chapter 230 is created to read as follows:
Any person who has made a report of unclaimed pari-mutuel tickets to the commission as required by this Act, shall between November 1 and November 15 of each year, turn over to the commission the sum represented by the unclaimed pari-mutuel tickets so reported; but if the person making the report or the owner of the unclaimed pari-mutuel ticket certifies to the commission by sworn statement that any or all of the statutory conditions necessary to create a presumption of abandonment no longer exists or never did exist, or shall certify existence of any fact or circumstance in which there is substantial evidence to rebut such presumption, then, the person reporting the unclaimed pari-mutuel tickets or holding the sum represented by the unclaimed pari-mutuel tickets as reported shall not be required to turn over said sum to the commission except upon order of Court. If the holder of any unclaimed pari-mutuel ticket files an action in Court claiming the sum which has been reported under the provisions of this Act, the person reporting or holding the sum represented by said unclaimed pari-mutuel ticket shall be under no duty while any such action is pending to turn over said sum to the commission, but shall have the duty of notifying the commission of the pendency of such action.

Section 4. A new section of KRS Chapter 230 is created to read as follows:
Any person holding an unclaimed pari-mutuel ticket or any person holding the sum represented by an unclaimed pari-mutuel ticket, or any claimant thereto shall have the right to a judicial determination of his rights under this Act and nothing therein shall be construed otherwise; and the commission may institute an action to recover the sum represented by the unclaimed pari-mutuel tickets which are presumed abandoned whether said sum has been reported or not and may include in one petition the sum represented by all the unclaimed pari-mutuel tickets as defined herein within the jurisdiction of the Court in which the action is brought.

Section 5. A new section of KRS Chapter 230 is created to read as follows:
Any person who pays the sum represented by the unclaimed pari-mutuel tickets to the commission under this Act is relieved of all liability for the value of said unclaimed pari-mutuel tickets for any claim made in respect of said unclaimed pari-mutuel tickets.

Section 6. A new section of KRS Chapter 230 is created to read as follows:
Any person claiming an interest in any unclaimed pari-mutuel ticket which has been paid or surrendered to the commission in accordance with this Act may file his claim to it at any time after it was paid to the commission.

Section 7. A new section of KRS Chapter 230 is created to read as follows:
The commission shall consider any claim or defense permitted to be filed before the commission and hear the evidence concerning it. If the claimant establishes his claim, the commission shall, when the time for appeal or other legal procedure has expired, authorize payment to him of a sum equal to the amount of his claim paid to the commission in accordance with this Act. The decision shall be in writing and shall state the substance of the evidence heard by the commission, if a transcript is not kept. The decision shall be a matter of public record.

Section 8. A new section of KRS Chapter 230 is created to read as follows:
Any person dissatisfied with the decision of the commission in this regard may appeal to the Franklin Circuit Court in accordance with the provisions of KRS 243.560 to 243.590.

Section 9. A new section of KRS Chapter 230 is created to read as follows:
The commission, through its employes, may examine all records of any person where there is reason to believe that there has been or is a failure to report unclaimed pari-mutuel tickets.

Section 10. A new section of KRS Chapter 230 is created to read as follows:
The commission may promulgate any reasonable and necessary rules for the enforcement of these provisions and hearings held before it.

Section 11. A new section of KRS Chapter 230 is created to read as follows:
The commission may require the production of reports or the surrender of sums represented by unclaimed pari-mutuel tickets as provided in this Act by civil equity action, including, but not limited to, an action in the nature of a bill of discovery, in which case the defendant shall pay a penalty equal to ten percent (10%) of all amounts that he is ultimately required to surrender. The commission shall follow the procedures provided by the Rules of Civil Procedure.

Section 12. A new section of KRS Chapter 230 is created to read as follows:
Any payments made to any persons claiming an interest in an unclaimed pari-mutuel ticket, and any necessary expense including, but not limited to, administrative costs, advertising costs, court costs and attorney's fees, required to be paid by the commission in administering or enforcing the provisions of this Act shall be deducted from sums received by the commission prior to payment to the Kentucky Racing Health and Welfare Fund.

Section 13. A new section of KRS Chapter 230 is created to read as follows:
Any holder of unclaimed pari-mutuel tickets affected by this Act under disability shall have five years after the disability is removed in which to take any action or procedure or make any defense allowed to one sui juris.

Section 14. A new section of KRS Chapter 230 is created to read as follows:
All sums reported and paid to the commission under the provisions of this Act shall be paid by the commission to the Kentucky Racing Health and Welfare Fund, Inc., a nonprofit charitable corporation, organized for the benefit, aid, assistance and relief of owners, trainers, jockeys, valets, exercise boys, grooms, stable attendants, pari-mutuel clerks and other racing personnel employed in connection with racing, and their wives and children, who can demonstrate their need for financial assistance connected with death, illness or off-the-job injury and are not otherwise covered by union health and welfare plans, workmen's compensation, social security, public welfare, or any type of health, medical, death or accident insurance. Said fund may also purchase or lease property and acquire other assets necessary to operate a home for aged and needy persons described above. Said sums shall be paid on or before December 31 in each year, provided that no payments shall be made by the commission to the Kentucky Racing Health and Welfare Fund, Inc., unless the commission, in its discretion, is satisfied that the Fund is in all respects being operated for the charitable and benevolent purposes as set forth above and that no part of the funds paid to the Fund by the commission or any net earnings of the Fund inure to the benefit of any private individual, director, officer or member of the Fund or any of the persons who turned over sums to the commission representing unclaimed pari-mutuel tickets.

Section 15. A new section of KRS Chapter 230 is created to read as follows:
Any person who refuses to make any report or to turn over sums as required by this Act shall be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000), or imprisoned for not less than thirty (30) days nor more than six (6) months, or both.

Section 16. KRS 393.095 is amended to read as follows:
All funds represented by unclaimed pari-mutuel winning tickets held in this state by any person, association or corporation operating a pari-mutuel or similar system of betting at running or trotting horse race tracks, *except thoroughbred race meetings,* shall be presumed abandoned, within the meaning of KRS Chapter 393, if not claimed by the person entitled thereto within two years from the time the ticket became payable.

HB 301, AN ACT relating to alcoholic beverages licenses.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 243.050 is amended to read as follows:

(1) The department may issue a railroad system license to a railroad company upon the payment of a fee of one thousand dollars ($1,000). This license tax shall be in lieu of all license and excise taxes which would otherwise be due by the holder in connection with the retailing of alcoholic beverages.

(2) The department may issue a commercial airlines system license to a commercial airlines system or charter flight system upon the payment of a fee of $1,000. This license fee shall be in lieu of all license and excise taxes which would otherwise be due by the holder in connection with the retailing of alcoholic beverages and the license may be renewed annually for a fee of $1,000. The license shall authorize the licensee to sell distilled spirits and wine by the drink and by miniature bottle, and malt beverages, upon regularly scheduled or charter flights of the licensee, into and out of the State of Kentucky. The license shall authorize the licensee to store alcoholic beverages for retail sale at a location or locations, if operating from more than one airport in Kentucky, as designated on the license application.

(3) The department may issue a transporter's license to a commercial airline system, a charter flight system, or a commercial cargo system, upon the payment of $100. This license may be renewed annually for a fee of $100. The license shall authorize the licensee to transport distilled spirits and wine and malt beverages, into and out of the State of Kentucky, upon regularly scheduled or charter flights of the licensee. The license shall authorize, for the purpose of transportation, the storage of alcoholic beverages at a location or locations, if operating from more than one airport in Kentucky, as designated on the license application. This license shall authorize an airline to transport if both the consignor and consignee in each case are authorized by the laws of the states of their residence to sell, purchase, ship or receive the alcoholic beverages.

Section 2. KRS 243.110 is amended to read as follows:

(1) Except as provided in subsection (2) of this section, each kind of license listed in KRS 243.030 shall be inconsistent with every other kind listed in that section and no person holding a license of any of those kinds shall apply for or hold a license of another kind listed in KRS 243.030.

(2) The holder of a retail package license may also hold either a retail drink license or a special nonindustrial alcohol license. The holder of a transporter's license may also hold a special storage or warehouse license. The holder of a wholesaler's license may also hold a special nonbeverage alcohol vendor's license, a special industrial alcohol license or a vintner's license. The holder of a distiller's license may also hold a rectifier's license. *A commercial airline system or charter flight system retail license, a commercial airline system or charter flight system transporter's license, and a retail drink license if held by a commercial airline or charter flight system may be held by the same person or corporation.*

(3) Any person may hold two (2) or more licenses of the same kind.

(4) An applicant shall not evade the prohibition against applying for or holding licenses of two (2) kinds by applying for a second license under the cloak of a separate corporate entity. The state administrator may examine into the ownership and management of corporations which apply for or hold licenses, and shall deny the application for a license to any party substantially interested in an incompatible license.

SB 68, AN ACT relating to the State Real Estate Commission.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 324.281 is amended to read as follows:

(1) There is hereby created the State Real Estate Commission. The Governor shall appoint *five (5)* [three] persons, *at least four (4)* [each] of whom, immediately prior to the date of *their* [his] appointment *have* [has] been [a] residents of the state for five years and whose vocation for a period of at least ten years shall have been that of a real estate broker, or a real estate salesman. *One (1) member shall be a citizen at large who is not associated with or financially interested in the practice or business regulated. Of the two (2) additional members appointed to the Commission as provided by this Act,* [; one member shall be appointed for a term of one year;] one member shall be appointed for a*n initial* term of two years *and* [;] one member shall be appointed for a*n initial* term of three (3) years; and until their successors are appointed and qualify. [, thereafter] *Thereafter* the term of the members of said commission shall be for three years and until their successors are appointed and qualify. The Kentucky Association of Realtors shall supply a list of not less than three names to the Governor each year from which *the broker or salesman* appointments are to be made.

There shall not be more than *three (3)* [two (2)] of any one political party serving on the commission at the same time. Members to fill vacancies shall be appointed for the unexpired term.

(2) It shall be the duty of the commission to hold disciplinary hearings concerning matters in controversy as provided by this chapter; to conduct examinations for applicants eligible under this chapter; to conduct whenever deemed necessary certain educational seminars and courses directed toward continuing education within the real estate field; to investigate or cause to be investigated any irregularities in violation of this chapter or the promulgated and authorized rules and regulations of the commission; to participate with any other agency of the Commonwealth or the authorized agency of another state for the betterment or improvement of the administration of the statutes, rules or regulations governing this commission. Any action taken by the commission under this subsection shall be appealable as are other actions of the commission under this chapter.

The Committee on Cities reported **HB 35,** with Committee Amendment attached thereto, and **HB 282,** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 35, AN ACT providing for the creation and operation of a housing rehabilitation revolving loan fund.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 198A is created to read as follows:

(1) There is hereby created and established a special revolving loan fund to be known as the housing rehabilitation fund to be administered by the corporation as a trust fund separate and distinct from any other monies or funds administered by the corporation.

(2) The housing rehabilitation fund shall be comprised of and the corporation is hereby authorized to receive and accept for the housing rehabilitation fund the proceeds of grants, contributions, appropriations, repayment of loans made from the fund and any other monies which may be made available to the corporation for the purpose of the housing rehabilitation fund from any other source.

(3) The housing rehabilitation fund shall serve to finance through low interest loans, the proper and timely maintenance or more extensive housing rehabilitation efforts of low income homeowners for the purposes of:

(a) preventing or correcting physical deterioration of the homes of such low income homeowners;

(b) protecting the health and safety of the occupants of such homes;

(c) preventing, arresting or reversing any pattern of neighborhood decline which may have arisen or may arise through the inability of low income homeowners to properly maintain or repair their homes; and

(d) encouraging, through visible neighborhood improvements, private lenders to make home improvement loans to qualified persons living in neighborhoods which evidence incipient or actual decline in the physical condition or value of real estate located therein.

(4) The housing rehabilitation fund may also be used to finance the improvement of rental housing units if such units will be rented under the provisions of governmental housing programs which establish ceilings upon allowable rents and limits upon the percentage of a tenant's income which may be devoted to rent payments.

(5) The corporation may make, participate in, or purchase housing rehabilitation loans using funds in the rehabilitation loan fund, and such loans may be made for periods of up to fifteen (15) years, and the average annual interest rates on all monies loaned from the housing rehabilitation fund shall be no greater than four and one-half (4-1/2%) percent. The corporation shall make, participate in or purchase a rehabilitation loan only upon the determination by the corporation that the rehabilitation loan would not otherwise be available, wholly or in part, from private lenders upon reasonably equivalent terms and conditions.

Section 2. A new section of KRS Chapter 198A is created to read as follows:

Priority shall be given in granting rehabilitation loans to homes located in neighborhoods where the investment of public funds is likely to prevent or reverse a pattern of decline, stimulate private investment, and promote stable or rising real estate values.

Section 3. A new section of KRS Chapter 198A is created to read as follows:

The corporation shall coordinate the administration of the housing rehabilitation fund with the urban renewal, redevelopment, housing rehabilitation and similar plans and programs of the cities of the commonwealth to determine whether loans made from the fund and in accordance with stated purposes of this chapter can assist in the fulfillment of such plans and programs.

Section 4. A new section of KRS Chapter 198A is created to read as follows:

Older persons applying for loans from the housing rehabilitation fund shall not be discriminated against on the basis of age, but their applications shall be evaluated according to their financial capability and the effect which rehabilitation loans would have on the value of their homes.

Section 5. A new section of KRS Chapter 198A is created to read as follows:

No loans shall be made by the corporation from the housing rehabilitation fund except in accordance with a written agreement which shall include, without limitation, the following terms and conditions:

(1) The proceeds of such loans shall be used only for the purpose for which such loan shall have have been made as provided in the agreement;

(2) Such loan shall be repaid in full as provided in the agreement;

(3) Such security for repayment shall be specified and shall be upon such terms and conditions as the corporation deems reasonably necessary or practicable to insure all repayments.

Section 6. A new section of KRS Chapter 198A is created to read as follows:

No part of the rehabilitation loan fund shall be applied to any purpose other than making low interest home maintenance or rehabilitation loans and providing for the administrative costs thereof.

Section 7. A new section of KRS Chapter 198A is created to read as follows:

The corporation shall not fail to make, purchase or participate in rehabilitation loans for the reason of inability to secure federal insurance, nor shall it unreasonably delay making, purchasing, or participating in rehabilitation loans because of difficulty in securing federal insurance; but it shall in such events seek other forms of insurance or protect its investment through consideration of the potential value of the real estate which secures a rehabilitation loan. This section shall not be construed to mean that the corporation must first seek federal insurance before considering other forms of security.

Section 8. A new section of KRS Chapter 198A is created to read as follows:

The corporation shall submit a report to the General Assembly on the opening day of each regular session of the amount of the fund which is currently loaned, the amount which is currently held by the corporation pending approval of applications for loans, the amount currently invested as provided in KRS 386.020, and the amount and duration of temporary investments during the preceding biennium. This report shall also include an evaluation of the fund's performance in accomplishing its purposes as enumerated in this chapter, recommendations, if any, of how fund performance could be improved, and an estimate of how much in additional appropriations could usefully be applied to accomplishing the stated purposes of the fund during the next biennium.

Section 9. To carry out the purposes of this Act, there is appropriated to the housing rehabilitation fund out of the General Fund in the State Treasury the sum of three million dollars, ($3,000,000) for the 1977 fiscal year and the sum of three million dollars ($3,000,000) for the 1978 fiscal year.

The Committee Amendment to **HB 35** is as follows:

Amend printed copy of House Bill 35, on page 1, by deleting line 19 and by inserting therefor: "efforts of persons of low income who are homeowners, or who may become homeowners through contracts with local governments to rehabilitate local government owned residential property, for the purposes of;"

and on page 2, line 8, by deleting the word "home" and by inserting therefor: "homes"

and on page 2, line 24, by deleting the word "rates" and by inserting therefor: "rate"

and on page 3, line 18, by deleting the word "cities" and by inserting therefor: "local governments"

HB 282, AN ACT relating to Landlords and Tenants.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 383.715 is amended to read as follows:

(1) The provisions of KRS 383.505 to 383.715 shall apply only to Counties containing cities of the First *and Second* Class and Urban-County Governments.

(2) KRS 383.505 to 383.715 shall be known and may be cited as the "Uniform Residential Landlord and Tenant Act."

The Committee Amendment to **HB 282** is as follows:

Amend printed copy of House Bill 282, on page 1, line 3, delete subsection 1 completely

and on page 1, line 6, change subsection 2 as subsection 1.

The Committee on Elections and Constitutional Amendments reported **HB 151,** with Committee Amendment attached thereto, **HB 239,** with Committee Amendment attached thereto, and **HB 264** with the expression of opinion that the same should pass. Read at length for the first time and order placed in the Calendar.

HB 151, AN ACT relating to elections.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 118.025 is amended to read as follows:

(1) Except as otherwise provided by law voting in all elections shall be by secret ballot on voting machines.

(2) The general laws applying to regular, special and primary elections shall apply to elections conducted with the use of voting machines, and all provisions of such laws with respect to the custody of ballot boxes shall apply, as far as applicable, to the custody of the voting machine.

(3) All primary elections for the nomination of candidates to be voted for at the next regular election shall be held on the *last Tuesday in August* [first Tuesday after the fourth Monday in May] of each year *except during a presidential election year when the primary shall be held on the last Tuesday in May.*

(4) The election of all officers of all governmental units shall be held on the first Tuesday after the first Monday in November.

Section 2. KRS 89.060 is amended to read as follows:

(1) In cities of the fourth class no person shall be elected to the office of mayor, police judge or commissioner without first having been nominated in the manner prescribed by this section. *On the day set by law as provided for in KRS 118.025* [On the first Tuesday after the fourth Monday in May] there shall be held a primary election. The primary election shall be conducted by the same officers chosen and acting in the same manner, with the same rights and duties, as in the regular election.

(2) Each applicant for nomination shall, at least fifty-five days before the day of the primary election, file with the county clerk a petition signed by at least twenty voters, in the following form:

"We the undersigned, qualified voters of the city of .... and residing each at the place indicated opposite his name, do hereby request that the name of .... be placed on the voting machine and special ballot as that of an applicant for nomination for the office of .... at the primary election [to be held in our city on the first Tuesday after the fourth Monday in May]. We know the applicant to be a qualified voter of the city and a person of good character; and he is, in our judgment, qualified for the duties of the office sought by him.

Name Number

Street

....

....

...."

No voter shall sign more than one petition with reference to each office that is to be filled. If a person signs more than one petition of applicants for nomination for mayor or police judge, or signs the petitions of more than four applicants for nomination for commissioners, the name of that petitioner shall not be counted as a valid name on any petition.

(3) Immediately upon the expiration of the time for filing the petitions, the county clerk shall have published pursuant to KRS chapter 424, the names of the persons as they will appear upon the primary ballot labels and special ballots, and shall thereupon cause the primary ballot labels and special ballots to be printed.

(4) Subsection (3) of this section shall not apply if it appears, immediately upon the expiration of the time for filing petitions, that there are only two applicants for nomination for mayor or police judge, and only eight or less for commissioners. In that case such applicants shall thereupon be nominated and no primary election shall be held for nomination for those offices, but the county clerk shall have their names placed on the voting machine and special ballot for the general election.

(5) The names of the applicants for each nomination shall be placed on the voting machine and special ballots for the primary election by lot. Above the names of the applicants for nomination for mayor or police judge shall be printed the words "Vote for one," and above the names of the applicants for nomination for commissioners shall be printed the words "Vote for four." No party designation or emblem of any kind, nor any sign indicating any applicant's political belief or party affiliation shall be used.

(6) The persons who are qualified to vote at the regular municipal election shall be qualified to vote at the primary election, and the law applicable to challenges made at a regular municipal election shall be applicable to challenges made at the primary election.

(7) The two applicants receiving the highest number of votes for nomination for mayor and the two applicants receiving the highest number of votes for nomination for police judge shall be thereby nominated. The eight applicants receiving the highest number of votes for nomination for commissioners shall be thereby nominated.

(8) The expenses of the primary election shall be paid by the city, when only city offices are on the ballot. When the ballot includes offices other than city offices, the city shall bear its proportionate share of the cost of the election.

Section 3. KRS 89.440 is amended to read as follows:

(1) No person shall be elected to the office of mayor, police judge or commissioner without first being nominated in the manner prescribed by this section. *On the day set by law as provided for in KRS 118.025* [On the first Tuesday after the fourth Monday in May] there shall be held a primary election. The primary election shall be conducted by the same officers chosen and acting in the same manner, with the same rights and duties, as in the regular election.

(2) Each applicant for nomination shall, at least fifty-five days before the day of the primary election, file with the county clerk a petition signed by at least one hundred (100) voters, in a city of the first or second class, or by at least fifty (50) voters in a city of the third or fourth class, in the following form:

"We the undersigned, qualified voters of the city of .... and residing each at the place indicated opposite his name, do hereby request that the name of .... be placed on the voting machine and special ballot as that of an applicant for nomination for the office of .... at the primary election [to be held in our city on the first Tuesday after the fourth Monday in May]. We know the applicant to be a qualified voter of the city and a person of good character, and he is, in our judgment, qualified for the duties of the office.
Name Number

Street

....

....

...."

No voters shall sign more than one (1) petition with reference to each office that is to be filled. If any voter signs more than one (1) petition of applicants for nomination for mayor or police judge, or signs the petitions of more applicants for nomination for commissioners than the number of commissioners to be elected, the name of that petitioner shall not be counted as a valid name on any petition.

(3) Immediately upon the expiration of the time for filing petitions the county clerk shall have published as provided in KRS chapter 424, the names of the persons as they will appear upon the primary ballot labels and special ballots, and shall thereupon cause the primary ballot labels and special ballots to be printed.

(4) Subsection (3) of this section shall not apply if it appears, immediately upon the expiration of the time for filing petitions, that there are not more than two (2) applicants for nomination as mayor or police judge, or not more applicants for nomination for commissioner than twice the number of commissioners to be elected. In that case the applicants for mayor or police judge and the applicants for commissioner shall thereby be nominated, and no primary election shall be held for nomination for those offices.

(5) The names of the applicants for each nomination shall be placed on the voting machine as provided in KRS 89.460. Above the names of the applicants for nomination for mayor or police judge shall be printed the words, "Vote for one," and above the names of the applicants for nomination for commissioners shall be printed the words, "Vote for four," in a city of the second, third or fourth class. No party designation or emblem of any kind, nor any sign indicating any applicant's political belief or party affiliation shall be used.

(6) The persons who are qualified to vote at the regular municipal election are qualified to vote at the primary election, and the law applicable to challenges made at a regular municipal election is applicable to

challenges made at the primary election.

(7) The votes shall be counted as provided in the general election laws, and after being so counted the result shall be published as provided in KRS chapter 424.

(8) The two (2) applicants receiving the highest number of votes for nomination for mayor and the two (2) applicants receiving the highest number of votes for nomination for police judge shall be thereby nominated. The eight (8) applicants receiving the highest number of votes for nomination for commissioners are thereby nominated.

(9) The expenses of the primary election shall be paid by the city, when only city offices are on the ballot. When the ballot includes offices other than city offices, the city shall bear its proportionate share of the cost of the election.

The Committee Amendment to **HB 151** is as follows:

Amend printed copy of House Bill 151, on page 1, line 14, delete "*last Tuesday in August*"

and on page 1, line 14, after the word "the", insert"last Saturday in August"

HB 239, AN ACT relating to elections.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 116 is created to read as follows:

In counties containing cities of the first and second class a purge of the voter registration list shall be conducted every two years. The county board of elections shall employ and compensate the individuals to conduct the purge.

The Committee Amendment to **HB 239** is as follows:

Amend printed copy of House Bill 239, on page 1, line 3, before the word "In" add "(1)"

and on line 8 add the following words:

"(2) In each precinct the purge shall be conducted by the precinct captains of each political party. The precinct captains shall be compensated thirty dollars ($30) each for the purge of the precinct."

HB 264, AN ACT relating to elections.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 118.560 is amended to read as follows:

(1) On the regular primary election day, in accordance with KRS 118.025 in each presidential election year, the commonwealth of Kentucky shall conduct presidential *and vice presidential* preference primary elections within each political party.

(2) Hours of voting shall be in accordance with KRS 118.035.

(3) The cost of election, officials, and the entire method of conducting the presidential *and vice presidential* preference *primaries* [primary] shall be in accordance with Kentucky statutory provisions on primary elections.

Section 2. 118.570 is amended to read as follows:

To qualify to vote in a presidential *and vice presidential* preference *primaries* [primary] in the commonwealth a voter must register to vote in the same manner as prescribed in KRS chapter 116. A voter shall vote only in the presidential *and vice presidential* preference *primaries* [primary] of the political party for which he has declared a preference, as required by KRS 116.055.

Section 3. KRS 118.580 is amended to read as follows:

The state board of elections shall convene in Frankfort fifty-five (55) days before the date fixed by law for the holding of primary elections. At the meeting required by this section, the board shall nominate as presidential *and vice presidential* preference primary candidates all those generally advocated and nationally recognized as candidates of the political parties for the office of president *and vice president* of the United States. Immediately upon completion of this requirement, the board shall transmit a list of all such nominees selected to the secretary of state and shall also release the list to the news media.

Section 4. KRS 118.590 is amended to read as follows:

(1) Any person seeking the endorsement by a political party for the office of president *or vice president* of the United States who has not been nominated by the state board of elections, or any group organized in this state on behalf of, and with the consent of, such person, may file with the secretary of state certified petitions signed by 1,000 persons who, at the time they sign are registered and qualified voters in this commonwealth and are affiliated, by such registration, with the same political party as the candidate for whom petitions are filed.

(2) Such petitions shall be filed by the petitioners with the secretary of state no later than *fifty-five (55)* [forty-five (45)] days before the date fixed by law for the holding of the primary election.

(3) The petitions must state:

(a) The name of the candidate for nomination, *the office which he seeks* and the party of which he is a member;

(b) The name and address of the chairman of the group circulating such petition.

(4) The secretary of state shall forthwith determine the sufficiency of petitions filed with him and shall immediately communicate his determination to the chairman of the group which has filed said petitions.

Section 5. KRS 118.600 is amended to read as follows:

(1) The secretary of state shall forthwith contact each person who has been nominated by the state board of elections or by petition and notify him in writing by certified or registered mail with return receipt requested, that his name will appear as a candidate on the Kentucky presidential *and vice presidential* primary ballot of his party, provided that he:

(a) Deposits with the secretary of state the sum required by KRS 118.610; and

(b) Forwards to the secretary of state a notice of candidacy form to be supplied by the secretary of state along with the written notification required by this section.

(2) Failure of a candidate to deposit the fee required by KRS 118.610 and to execute the notice of candidacy within fifteen (15) days after receipt of the written notification shall be a disclaimer and a withdrawal of his name from the primary.

Section 6. KRS 118.610 is amended to read as follows:

(1) Before any candidate's name is placed upon the official ballot by the secretary of state for a presidential *or vice presidential* preference primary in the commonwealth the candidate must deposit with the secretary of state the sum of two hundred and fifty dollars ($250), which shall be refunded to the candidate by the secretary of state if the candidate receives three percent (3%) or more of the total vote cast in the presidential *and vice presidential* preference *primaries* [primary] of his political party.

(2) If the candidate fails to receive three percent (3%) or more of the total popular vote cast in the presidential *or vice presidential* preference primary of his party, the two hundred and fifty dollar ($250) deposit shall escheat to the commonwealth and be placed in a special trust and agency fund to be used by the secretary of state to defray election expenses.

Section 7. KRS 118.620 is amended to read as follows:

(1) The secretary of state shall place the names of all candidates who have been nominated by the state board of elections or by petition and who satisfy the requirements of KRS 118.600 and 118.610 on the official presidential *or vice presidential* preference primary ballot of their respective political parties.

(2) If no presidential *or vice presidential* candidates nominated by the board or by petition meet the requirements of KRS 118.600 and 118.610, then no presidential *or vice presidential* preference primary shall be held in the commonwealth.

Section 8. KRS 118.630 is amended to read as follows:

Upon completion of the official canvass of the results of the primary by the state board of elections, the secretary of state shall certify to the state chairman of each political party participating in the presidential *and vice presidential* preference *primaries* [primary] the following:

(1) The names of the candidates entitled to delegate votes under provisions of KRS 118.640;

(2) The total vote received by each;

(3) A declaration that the results of the presidential *and vice presidential* preference *primaries* [primary] , in accordance with the division of votes reflected by the official canvass, shall be the official vote cast by each political party at its national convention, on the first ballot only, and shall be designated by KRS 118.550

to 118.650 as an automatic vote, expressing the will of the people of the commonwealth of Kentucky; and

(4) After the vote on the first ballot by the political party at its national convention, as required by this section, all responsibility under KRS 118.550 to 118.650 shall terminate and further balloting shall be the prerogative of the political parties as might be prescribed by the rules of such political parties.

Section 9. KRS 118.640 is amended to read as follows:

The four (4) candidates *for the office of president and vice president of the United States* receiving the highest number of votes, or all candidates if there are fewer than four (4) participating in the primary, provided each candidate receives at least fifteen percent (15%) of the total vote cast by his political party, shall be awarded a pro rata portion of the authorized delegate vote of his political party as follows:

(1) The total vote received by the candidates *for the office of president and vice president of the United States* qualifying under the provisions of KRS 118.550 to 118.650 and subsections herein shall, when combined, be equal to one hundred percent (100%);

(2) Each such candidate shall share in the total percentage in direct proportion to the total vote received by him, mathematically determined to be the percentage of the aggregate vote which represents one hundred percent (100%);

(3) Each political party shall appropriate such percentage, *to the presidential and vice presidential candidates,* as is determined by this section, to the total number of delegate votes as are allotted by the national committee of each party; and

(4) Each political party shall, on the first ballot at its national convention, cast this commonwealth's vote for the candidates *for president and vice president of the United States* as determined by the primary and calculated under this section. Provided, however, that in the event of the death or withdrawal of a candidate receiving votes under this section prior to the tabulation of the first ballot, any delegate votes allocated to such candidate shall be considered uncommitted. Withdrawal shall mean notice in writing by the candidate to the chairman of the Kentucky delegation prior to the first ballot.

Section 10. KRS 118.650 is amended to read as follows:

It shall be the responsibility of the state chairman of each political party to notify his party's national committee no later than January 30 of each year in which such presidential *and vice presidential primaries* [primary] shall be conducted of the provisions contained herein relating to the automatic vote on the first ballot as required under KRS 118.550 to 118.650.

Section 11. Whereas, the primary election is held on the first Tuesday after the fourth Monday in May, an emergency is declared to exist, and this Act shall become effective upon its passage and approval by the Governor.

The Committee on Health and Welfare reported **HB 343** and **HR 40** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 343, AN ACT relating to school districts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 160 IS CREATED TO READ AS FOLLOWS:

The Department for Human Resources shall establish pilot projects in ten (10) local school districts for the purpose of transportation services as provided in KRS 160.305.

HR 40, A RESOLUTION directing the appointment of a special committee to study the needs of children from the prenatal period through eight years of age.

WHEREAS, Kentucky's children are its greatest resource for the future; and

WHEREAS, the provision of insufficient levels of income, nutrition and health care during prenatal development and childhood can result in physical and mental damage to children; and

WHEREAS, the rapid increase in the number of single parent families and working mothers has resulted in the need for additional child care resources; and

WHEREAS, available public and private programs designed to treat children with physical and emotional problems are often fragmented and lacking in coordination; and

WHEREAS, educational programs for children with special needs are inequitably distributed throughout the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. A special committee to study the needs of children from the prenatal period through eight years of age is hereby created. The special committee shall be composed of ten members, including four of whom shall be members of the Interim Joint Committee on Health and Welfare appointed by the chairman of said committee, and six persons appointed by the Legislative Research Commission who shall represent organizations expressing an interest in the provision of services to children in the areas of income, health, child care, nutrition, education and social services.

Section 2. The special committee shall review and identify unmet needs concerning the availability, adequacy of services and funding of public and private programs serving normal children and those with special needs in the areas of income, health, child care, nutrition, education and social services.

Section 3. All cabinets, agencies and departments of state government are directed to provide full assistance and information to the special committee upon request.

Section 4. The special committee shall report its findings and recommendations to the 1978 General Assembly no later than August, 1977.

The Committee on Judiciary-Courts reported **HB 434,** with Committee Amendment attached thereto, and **HB 378,** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 434, AN ACT relating to the unified court system.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. KRS CHAPTER 26A IS ESTABLISHED AND A NEW SECTION THEREOF CREATED TO READ AS FOLLOWS:

(1) When collection of a judgment for the payment of money has been stayed as provided in the Rules of Civil Procedure, there shall be no damages assessed on the first appeal as a matter of right contemplated by Section 115 of the Constitution of Kentucky.

(2) When collection of a judgment for the payment of money has been stayed as provided in the Rules of Civil Procedure pending any other appeal, damages of twelve percent (12%) on the amount stayed shall be imposed against the appellant in the event the judgment is affirmed or the appeal is dismissed after having been docketed in an appellate court.

(3) Similar damages of twelve percent (12%) shall be imposed when a petition for writ of certiorari, petition for rehearing, or other petition which stays collection of a judgment for the payment of money is denied by an appellate court under circumstances not constituting a first appeal under subsection (1) of this section.

(4) No additional penalty shall be imposed upon a party as a consequence of a review subsequent to a petition or a second appeal.

(5) Damages imposed under subsections (2) or (3) of this section shall not be payable and shall be void if the decision of the trial court awarding the payment of money is ultimately reversed.

The Committee Amendment to **HB 434** is as follows:

Amend printed copy of House Bill 434 on page 1, line 11, by deleting "twelve percent (12%)" and inserting in lieu thereof "ten percent (10%)"

and on line 15 by deleting "twelve percent (12%)" and inserting in lieu thereof "ten percent (10%)"

and on page 2 by adding:

Section 2. KRS 360.040 is amended to read as follows:

A judgment shall bear *eight percent (8%)* [legal] interest from its date. A judgment may be for the principal and accrued interest; but if rendered for accruing interest, it shall bear interest only according to its terms. Provided, That when a claim for unliquidated damages is reduced to judgment, such judgment may bear less interest than *eight percent (8%)* [six percent (6%)] if the court rendering such judgment, after a hearing on that question, is satisfied that the rate of interest should be less than *eight percent (8%)* [six percent (6%)]. All interested parties must have due notice of said hearing.

HB 378, AN ACT relating to children.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 405 is created to read as follows:
(1) The circuit court may grant reasonable visitation rights to either the paternal or maternal grandparents of a child and issue any necessary orders to enforce the decree if it determines that it is in the best interest of the child to do so.
(2) The action shall be brought in circuit court in the county in which the child resides.

The Committee Amendment to **HB 378** is as follows:

Amend printed copy of House Bill 378 on page 1, line 5, by adding after the word "child" the words "whose parent is deceased"

The Committee on Judiciary-Statutes reported **HB 218, HB 305, HB 365,** HB 412, and **HB 419** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the calendar.

HB 218, AN ACT relating to liability of parents for wilful property damage caused by minor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 405.025 is amended to read as follows:
(1) The parent or guardian of any unemancipated minor, in their care and custody, against whom judgment has been rendered for the willful marking upon, defacing or damaging any property, shall be liable for the payment of that judgment up to an amount not to exceed *twenty-five hundred dollars ($2500)* [five hundred dollars], if the parent or guardian has been joined as a party defendant in the original action. The judgment provided herein to be paid shall be paid to the owner of the property damaged but such payment shall not be a bar to any criminal action or any proceeding against the unemancipated minor committing such damage for the balance of the judgment not paid by the parent or guardian.
(2) Nothing in this section is intended to or shall limit to *twenty-five hundred dollars ($2500)* [five hundred dollars] the liability of a person to whom the negligence of a minor is imputed by KRS 186.590, nor shall this section limit the liability set forth in any other statute to the contrary.

HB 305, AN ACT relating to liability of parents for assaults by their children.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 405 is created to read as follows:
(1) Any person may maintain an action to recover compensatory damages in a civil action, in an amount not to exceed two thousand five hundred dollars and costs of suit in a court of competent jurisdiction, from the parents having the custody and control of a minor under the age of eighteen years, who wilfully and maliciously assaults such person by a means or force likely to produce great bodily harm. A finding of willful and malicious assault by such means or force is not dependent upon a prior finding of delinquency of the minor.

(2) Such action shall be commenced and heard as in other civil actions for damages.

HB 365, AN ACT relating to the presumption of abandonment of certain property held by a bank, financial organization or business association.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 393.060 is amended to read as follows:
The following property held or owing by a banking or financial organization is presumed abandoned:

(1) Any deposit (legal, beneficial, equitable or otherwise) payable on demand in any bank or trust company in this state, together with the interest thereon, unless the owner has within ten years:

(a) Negotiated in writing with the bank or trust company concerning it;

(b) Been credited with interest on the passbook or certificate of deposit on his request;

(c) Had a transfer, disposition of interest on other transaction noted of record in the books or records of the bank or trust company; or

(d) Increased or decreased the amount of the deposit;

(2) Any sum payable on checks certified in this state or on written instruments issued in this state on which a banking or financial organization *or business association* is directly liable, including, by way of illustration but not of limitation, certificates of deposit, drafts, *money orders* and traveler's checks, that *with the exception of traveler's checks* has been outstanding for more than *ten (10)* [seven (7)] years from the date it was payable, or from the date of its issuance if payable on demand, *or, in the case of traveler's checks that has been outstanding for more than fifteen (15) years from the date of its issuance* unless the owner has within ten (10) years *or within fifteen (15) years in the case of traveler's checks* corresponded in writing with the banking or financial organization concerning it, or otherwise indicated an interest as evidenced by a memorandum on file with the banking or financial organization;

(3) Any funds or other personal property, tangible or intangible, removed from a safe deposit box or any other safekeeping repository or agency or collateral deposit box in this state on which the lease or rental period has expired due to nonpayment of rental charges or other reason, or any surplus amounts arising from the sale thereof pursuant to law, that have been unclaimed by the owner for more than ten years from the date on which the lease or rental period expired.

HB 412, AN ACT relating to persistent felony offenders.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 532.080 is amended to read as follows:

(1) When a defendant is found to be a persistent felony offender, the jury, in lieu of the sentence of imprisonment assessed under KRS 532.060 for the crime of which such person presently stands convicted, shall fix a sentence of imprisonment as authorized by subsection (4) of this section. When a defendant is charged with being a persistent felony offender, the determination of whether or not he is such an offender and the punishment to be imposed pursuant to subsection (4) of this section shall be determined in a separate proceeding from that proceeding which resulted in his last conviction. Such proceeding shall be conducted before the court sitting with the jury that found the defendant guilty of his most recent offense unless the court for good cause discharges that jury and impanels a new jury for that purpose.

(2) A persistent felony offender is a person who is more than twenty-one years of age and who stands convicted of a felony after having previously been convicted of two or more felonies. As used in this provision, a previous felony conviction is a conviction of a felony in this state or conviction of a crime in any other jurisdiction provided:

(a) That a sentence to a term of imprisonment of one year or more *regardless of whether such sentence was actually served* or a sentence to death was imposed therefor; and

(b) That the offender was over the age of eighteen years at the time the offense was committed [;and

(c) That the defendant was imprisoned under sentence for such conviction prior to commission of the present felony].

(3) For the purpose of determining whether a person has two or more previous felony convictions, two or more convictions of crime for which that person *was sentenced to or* served concurrent or uninterrupted consecutive terms of imprisonment shall be deemed to be only one conviction, unless one of the convictions was for an offense committed while that person was imprisoned.

(4) A person who is found to be a persistent felony offender shall be sentenced to imprisonment as follows:

(a) If the offense for which he presently stands convicted is a Class A felony, a persistent felony offender shall be sentenced to an indeterminate term of imprisonment with life imprisonment as the maximum; or

(b) If the offense for which he presently stands convicted is a Class B felony, a persistent felony offender shall be sentenced to an indeterminate term of imprisonment, the maximum of which shall not be less than twenty years nor more than life imprisonment; or

(c) If the offense of which he presently stands convicted is a Class C or Class D felony, a persistent felony offender shall be sentenced to an indeterminate term of imprisonment, the maximum of which shall not be less than ten years nor more than twenty years.

HB 419, AN ACT relating to railroads.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 277 IS CREATED TO READ AS FOLLOWS:

Whoever wilfully and wantonly shoots at, within, or into, or throws, hurls, or projects any wood, stone, or other substance at any train, locomotive, railway car, caboose, cable railway car, street railway car, monorail car, or vehicle of any kind belonging to any railroad; or wilfully and wantonly attempts to do or cause to be done any other matter or thing, in any of the cases aforesaid, to obstruct, upset, derail, overthrow, injure or destroy any engine, tender, carriage, car or track used on any such railroad, or to endanger the safety of any person or employe traveling or working or lawfully being upon any such railroad, shall be guilty of a class B misdemeanor.

SECTION 2. A NEW SECTION OF KRS CHAPTER 277 IS CREATED TO READ AS FOLLOWS:

Any person who violates any provision of this Act shall be fined not more than $250 or imprisoned not more than ninety (90) days or both.

The Committee on Rules reported **HB 8,** with Committee Substitute attached thereto, **HB 17, HB 29, HB 101,** and **HJR 7** have been posted for passage in Orders of the Day, February 13, 1976.

The Committee on Rules reported **HCR 23, HCR 5, HCR 6** have been recommitted to the Committee on State Government.

The Committee on Rules reported **HB 168,** with committee Substitute attached thereto, has been recommitted to the Committee on Appropriations and Revenue.

The Committee on Rules reported **HB 236** has been recommitted to the Committee on Banking and Insurance.

Posting of Bills and Resolutions for Consideration

The clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Counties and Special Districts: **HB 423, HB 424.**

Banking and Insurance: **HB 473.**

Health and Welfare: **HB 464, HB 466.**

Judiciary-Statutes: **HB 470, HB 251, HB 289.**

Labor and Industry: **HB 346, HB 373.**

State Government: **HB 20, HB 114, HB 186, HB 256, HB 348, HB 350, HB 360, HB 361, HB 363, HB 388, HB 392, HB 421, HB 427, HB 437, HB 439, HB 441, HB 442, HB 456, HB 457, HJR 32, HR 41, HCR 42, SB 98, SB 118, SB 143,** SCR 1, **SCR 6, SCR 17.**

The Clerk announced the Committee on Health and Welfare had withdrawn from Committee consideration **HB 166.**

Calendar

HB 334, SB 102, HB 171, HB 260 with Committee Amendment attached thereto, **HB 270** with Committee Amendment attached thereto, **HB 287, HB 315** with Committee Amendment attached thereto, **HB 102, HB 116** with Committee Amendments attached thereto, **HB 117, HB 128, HB 192** with Committee Amendment attached thereto, **HB 208, HB 288, HB 336, HB 411, HCR 37, HB 34** with Committee Substitute attached thereto, **HB 62** with Committee Amendment attached thereto, **HB 252,** and **HB 358** taken from the Calendar and ordered read at length for the second time. Representative B. Richardson moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Motions, Petitions and Communications

Representative McBee moved that the rules be suspended for the purpose of acting on a Resolution. Agreed.

Representative McBee moved that a call of the roll be taken to show co-sponsors of **HR 48.** Agreed.

The following members voted to co-sponsor **HR 48:** W. Allen, Bendl, Bennett,Beshear, Blair, Blandford, Blume, Blythe, Boatwright, Brown, Clarke, Craddock, Crupper, Cyrus, DeFalaise, Denham, Deskins, Dietz, Donnermeyer, Dunn, Fitzgerald, Floyd, Givhan, Gray, Guenthner, Hancock, Hardwick, Head, Holbrook, Holloway, Hopkins, Hughes, Hurst, Imes, Isler, Jones, Kenton, Kidd, King, Kleier, LeMaster, Lindsay, Little, Mann, May, Maynard, McGill, Morgan, Morris, Muncy, Nett, O'Brien, Overstreet, Priddy, Rattliff, Richards, P. Richardson, Schmidt, Siemens, Stewart, Tobin, Thomas, R. Turner, Vincent, Wells, White, Wible, Wooden, Wright, Yates.

Representative McBee moved the adoption of the following **HR 48:**

HR 48, A RESOLUTION in memory of Dan Roberts.

WHEREAS, Dan Roberts served the 60th District in the Kentucky House of Representatives in 1960, 1962, 1966 and 1970 and was part of the Department of Commerce until his death on November 17, 1975; and

WHEREAS, Dan Roberts served his community and his Commonwealth with distinction and without regard for self; and

WHEREAS, Dan Roberts was highly respected by all those fortunate enough to have associated with him; and

WHEREAS, his presence is sorely missed and his memory revered by those who knew and respected him;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That when the House of Representatives adjourns this day, Wednesday, February 11, 1976, it does so in honor and memory of the late Dan Roberts.

HR 48 was adopted by voice vote.

Representative Kleier moved that **HB 184** be taken from the Committee on Health and Welfare and sent to the Committee on Appropriations and Revenue. Agreed.

Representative B. Richardson filed Floor Amendment No. 1 to **SB 102.**

Orders of the Day

Representative B. Richardson moved that consideration of **HB 261** be deferred and that it retain its position in Orders of the Day. Agreed.

HB 111 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Bennett moved that **HB 111** be passed.

On the roll call the vote was yeas 80-Ackerson, B. Adams, J. Allen, W. Allen, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blandford, Blume, Boatwright, Brinkley, Brown, Bruce, Burnette, Carpenter, Clarke, Crupper, Cyrus, Dawahare, DeFalaise, DeMarcus, Denham, Deskins, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Floyd, Foster, Freeman, Givhan, Gray, Hancock, Hardwick, Head, Isler, Kenton, Kidd, King, Kleier, LeMaster, Lindsay, Little, Mann, Mason, May, Maynard, McBee, McBride, McGill, Morgan, Morris, Muncy, Nett, O'Brien, Overstreet, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Romines, Sale, Schmidt, Siemens, Siler, Stewart, Thomas, J. Turner, Vincent, Wells, White, Wible, Wooden, Wright, Yates. Nays 11-Arnold, Blythe, Guenthner, Holbrook, Holloway, Hopkins, Pearl, Robinson, Stephens, Tobin, R. Turner.

HB 111 was passed and the title agreed to.

Representative Bennett moved that the vote by which **HB 111** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 202 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Givhan moved that **HB 202** be passed.

On the roll call the vote was yeas 95-Ackerson, B. Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blandford, Blume, Blythe, Boatwright, Brinkley, Brown, Bruce, Burnette, Carpenter, Clarke, Craddock, Crupper, Cyrus, Dawahare, DeFalaise, DeMarcus, Denham, Deskins, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Floyd, Foster, Freeman, Givhan, Gray, Guenthner, Hancock, Hardwick, Head, Holbrook, Holloway, Hopkins, Hughes, Hurst, Imes, Isler, Jones, Kenton, Kidd, King, Kleier, LeMaster, Lindsay, Little, Mann, Mason, May, Maynard, McBee, McBride, McGill, Morgan, Morris, Muncy, O'Brien, Overstreet, Pearl, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Robinson, Romines, Sale, Schmidt, Siemens, Siler, Stephens, Stewart, Tobin, Thomas, J. Turner, R. Turner, Vincent, Wells, White, Wible, Wooden, Wright, Yates. Nays 0.

HB 202 was passed and the title agreed to.

Representative Givhan moved that the vote by which **HB 202** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 339 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Blandford moved that **HB 339** be passed.

On The roll call the vote was yeas 89-Ackerson, B. Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blandford, Blume, Boatwright, Brinkley, Brown, Bruce, Burnette, Carpenter, Clarke, Craddock, Crupper, Cyrus, Dawahare, DeFalaise, DeMarcus, Denham, Deskins, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Floyd, Foster, Givhan, Gray, Guenthner, Hancock, Hardwick, Head, Holbrook, Holloway, Hopkins, Hughes, Hurst, Isler, Jones, Kenton, Kidd, King, Kleier, LeMaster, Lindsay, Mann, Mason, May, Maynard, McBee, McBride, McGill, Morgan, Morris, Muncy, Nett, O'Brien, Overstreet, Pearl, Priddy, Rattliff, Richards, P. Richardson, Romines, Sale, Schmidt, Siemens, Siler, Stephens, Stewart, Tobin, Thomas, J. Turner, R. Turner, Vincent, White, Wible, Wooden, Wright, Yates. Nays 3-Imes, Little, B. Richardson.

HB 339 was passed and the title agreed to.

Representative Blandford moved that the vote by which **HB 339** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 356, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative DeFalaise moved the adoption of the Committee Amendment to **HB 356.** Agreed.

Representative DeFalaise moved that **HB 356,** as amended, be passed.

Representative Donnermeyer moved that consideration of **HB 356** be deferred until February 17, 1976, and made the first Order of the Day.

Representative Beshear moved that **HB 356,** as amended, be placed upon the table.

On the roll call the vote was yeas 50-B. Adams, A. S. Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Boatwright, Brinkley, Burnette, Craddock, Crupper, Denham, Deskins, Dietz, Donnermeyer, Doss, Dunn, Foster, Freeman, Gray, Hancock, Hardwick, Head, Holloway, Hughes, Kenton, Kidd, Mann, McBee, McBride, McGill, Morgan, Muncy, Nett, O'Brien, Pearl, Priddy, Richards, P. Richardson, Sale, Stephens, Stewart, Thomas, J. Turner, White, Wright. Nays 29-Ackerson, Blair, Blandford, Blythe, Brown, Bruce, Dawahare, DeMarcus, Fitzgerald, Guenthner, Holbrook, Hopkins, Hurst, Imes, Isler, King, LeMaster, Lindsay, Mason, Morris, Rattliff, B. Richardson, Robinson, Schmidt, Tobin, R. Turner, Vincent, Wible, Yates.

HB 356, as amended, was tabled.

HR 30, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Brunette moved that **HR 30** be adopted.

HR 30 was adopted by voice vote.

SB 15 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

On the roll call the vote was yeas 96-Ackerson, B. Adams, A. S. Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blandford, Blume, Blythe, Boatwright, Brinkley, Brown, Bruce, Burnette, Carpenter, Craddock, Crupper, Cyrus, Dawahare, DeFalaise, DeMarcus, Denham, Deskins, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Floyd, Foster, Freeman, Givhan, Gray, Guenthner, Hancock, Hardwick, Head, Holbrook, Holloway, Hopkins, Hughes, Hurst, Imes, Isler, Jones, Kenton, Kidd, King, Kleier, LeMaster, Lindsay, Little, Mann, Mason, May, Maynard, McBee, McBride, McGill, Morgan, Morris, Muncy, Nett, O'Brien, Overstreet, Pearl, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Robinson, Romines, Sale, Schmidt, Siemens, Siler, Stephens, Stewart, Tobin, Thomas, J. Turner, R. Turner, Vincent, Wells, White, Wible, Wooden, Wright, Yates. Nay 0.

SB 15 was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **SB 15** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

The Speaker vacated the Chair.

Representative DeMarcus presiding.

Representative B. Richardson moved that the rules be suspended for Introducation of Bills and Resolutions. Agreed.

Introduction of Bills and Resolution

HB 518, by Representatives Donnermeyer, Dietz, King, Isler, Mann, and Thomas: AN ACT relating to the safety and security of public airports.

HB 519, by Representative Blythe: AN ACT relating to noise pollution.

Announcements

The following announcements were made:

Counties and Special Districts, no meeting on Febraury 12, 1976.

Appropriations and Revenue, Budget Hearings, 9:30 a.m., Feburary 12, 1976, Senate Chamber.

Labor and Industry, special meeting on Monday and Tuesday, 15 minutes after adjournment.

Banking and Insurance, Tuesday, 11:00 a.m. instead of 10:00 a.m.

The following members filed requests with the Clerk to have their names added as co-sponsors of Bills and Resolutions: Representative Imes, HB 483, **HB 480;** Representative Holloway, **HB 393;** Representative Ackerson, HB 504, **HB 505, HB 506, HB 507;** Representative Yates, **HB 507, HB 506, HB 504.**

Recess

Representative B. Richardson moved that the House recess until 10:00 a.m., Friday, February 13, 1976. Agreed.

FRIDAY, FEBRUARY 13, 1976

THIRTIETH LEGISLATIVE DAY

The House was called to order by Speaker Kenton.

Representative B. Richardson moved that the rules be suspended for the invocation. Agreed.

Prayer by Reverend J. T. Harmon, First Methodist Church, Frankfort.

Representative B. Richardson moved that the rules be suspended for the purpose of dispensing with the following order of business: Roll Call, Reading and Approval of the Journal. Agreed.

Introduction of Bills and Resolutions

HB 520, by Representative Givhan: AN ACT relating to county officers and employes.

HB 521, by Representative Lindsay: AN ACT relating to Trust Funds held by Savings and Loan Associations.

HB 522, by Representatives Bevins, Craddock, Dawahare, Little, Mann, and Thomas: AN ACT relating to teacher retirement.

HB 523, by Representative Nett: AN ACT relating to the Department for Human Resources.

HB 524, by Representatives Siemens and Benson: AN ACT relating to a unified state court system.

HB 525, by Representatives Siemens and Benson: AN ACT relating to alibi defenses.

HB 526, by Representatives Benson and Siemens: AN ACT relating to police court in a city of the first class.

HB 527, by Representative Benson: AN ACT relating to the electing of legislative bodies in cities of the third, fourth, fifth and sixth classes.

HB 528, by Representative B. Adams: AN ACT relating to malt beverage, distilled spirits and wine tax revenue.

HB 529, by Representative DeFalaise: AN ACT relating to the recall of legislation.

HB 530, by Representative DeFalaise: AN ACT proposing an amendment to the Constitution of Kentucky relating to initiative and referendum.

HB 531, by Representative Kleier: AN ACT relating to horse racing.

HB 532, by Representative King: AN ACT relating to the financial responsibility of owners and operators of motor vehicles.

HJR 50, by Representative Hughes: A JOINT RESOLUTION directing the Public Service Commission to hold hearings on sewer related problems in Jefferson County.

HR 51, by Representatives Hughes and Thomas: A RESOLUTION adjourning in memory of Edward Dant Cecil.

HR 52, by Representative Hughes: A RESOLUTION urging the Kentucky State Police to assist in preserving the beauty of the highways.

Senate Message

Announcing passage of **SB 39, SB 113,** and **SB 150.**

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **HB 511, HB 517.**

Counties and Special Districts: **HB 514.**

Education: **HB 516, SJR 11.**

Health and Welfare: **HB 509.**

Judiciary-Courts: **SB 122.**

Judiciary-Statutes: **HB 508, HB 519;**

Labor and Industry: **HB 510.**

Public Utilities and Transportation: **HR 49, HB 512, HB 515, HB 518.**

State Government: **HB 513.**

Report of Committees

The Committee on Rules reported **HB 34, HB 121, HB 262, HB 263,** with Committee Amendment attached thereto, **HB 303** with Committee Amendment attached thereto, **HB 334, HB 336,** and **HCR 37** have been posted for passage in Orders of the Day, February 17, 1976.

The Committee on Rules reported **HB 93,** with Committee Substitute attached thereto, has been recommitted to the Committee on State Government.

Report on Enrolled Bills

The Committee on Enrollment reported **SB 15** had been examined and found correctly enrolled. **SB 15** read at length, compared and signed in open session by the Speaker. Order delivered to the Senate.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Agriculture and Natural Resources: **HR 44, HB 469.**

Business Organizations and Professions: **SB 75.**

Cities: **HB 451, HB 475.**

Education: **HB 501.**

Elections and Constitutional Amendments: **HB 223, HB 325, HB 402, HB 417, HB 444.**

Highways and Traffic Safety: **HR 36, HB 430.**

Judiciary-Statutes: **HB 467, HB 468, HB 479, HB 96.**

Public Utilities and Transportation: **HB 342.**

State Government: **HCR 5, HCR 6, HCR 23, HB 93.**

The Clerk announced the following Bills and Resolutions have been withdrawn from Committee consideration:

Judiciary-Statutes: **HB 90.**

Calendar

HB 5 with Committee Substitute and Committee Amendment to the Committee Substitute attached thereto, **HB 210, HB 255, HB 25, HB 301, SB 68, HB 35** with Committee Amendment attached thereto, **HB 282** with Committee Amendment attached thereto, **HB 151** with Committee Amendment attached thereto, **HB 239** with Committee Amendment attached thereto, **HB 264, HB 343, HR 40, HB 434** with Committee Amendment attached thereto, **HB 378** with Committee Amendment attached thereto, **HB 218, HB 305, HB 365, HB 412,** and **HB 419** taken from the Calendar and ordered read at length for the second time. Representative B. Richardson moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Motions, Petitions and Communications

Representative Mann moved that the rules be suspended for Posting of Bills and Resolutions for Consideration. Agreed.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bill has been posted for Committee consideration:

Business Organizations and Professions: **HB 484.**

Motions, Petitions and Communications (continued)

Representative Hughes moved that the rules be suspended for the purpose of acting on Resolutions. Agreed.

Representative Hughes moved the adoption of the following **HR 52:**

HR 52, A RESOLUTION urging the Kentucky State Police to assist in preserving the beauty of the highways.

WHEREAS, the interstate highways of the Commonwealth are a source of pride for their serviceability and surrounding beauty; and

WHEREAS, these highways are travelled by many out-of-state tourists who expect to see the magnificent countryside for which Kentucky is known; and

WHEREAS, the people of the Commonwealth should strive to see that Lady Bird Johnson's campaign to Keep America Beautiful was not in vain; and

WHEREAS, the beauty of these highways is being damaged daily by the thoughtless driving of the Kentucky State Police who conceal themselves in this once beautiful terrain in an overzealous attempt to arrest persons for speeding.

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the State Police be urged to assist in preserving the natural beauty along Kentucky's interstate highway network, and to refrain from operating their vehicles in a manner likely to be damaging to it.

Section 2. That a copy of this resolution be directed to Commissioner Truett Ricks of the Kentucky State Police.

HR 52 was adopted by voice vote.

Representative Hughes moved the adoption of the following **HR 51:**

HR 51, A RESOLUTION adjourning in memory of Edward Dant Cecil.

WHEREAS, Edward Dant Cecil did depart this earthly life on January 3, 1976; and

WHEREAS, Mr. Cecil, owner and operator of the Cecil Hotel in Lebanon, the only hotel in Marion County, was loved and revered by all with whom he came in contact; and

WHEREAS, Edward Dant Cecil, former Treasurer of Marion County, was born, lived, and died on the same farm in Raywick, Kentucky, leaving eleven children, fifty-six grandchildren and forty great-grandchildren;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That when the House of Representatives does adjourn this day, Friday, February 13, 1976, it does so in honor and memory of Edward Dant Cecil.

Section 2. That the Clerk be directed to transmit a copy of this resolution to Mrs. Regina Cecil.

HR 51 was adopted by voice vote.

Representative B. Richardson moved that the House go to the next order of business.

Representative Tobin moved that **HJR 7** be recommitted to the Committee on Judiciary-Statutes.

Representative Robinson moved that a call of the roll be taken to determine a quorum.

Representative Wible moved that the ruling of the chair that a quorum call was in order be appealed. (Representatives Wible and Beshear signed the appeal.)

Representative DeMarcus moved that the Sergeant at Arms arrest the members who had left the Chamber so that they may be recorded as being present.

The Speaker vacated the Chair.

Representative B. Richardson presiding.

Representative Wright moved that the House adjourn until 2:00 p.m., February 17, 1976.

The motion that the House adjourn until 2:00 p.m., February 17, 1976, was ruled out of order.

Representative DeFalaise moved that the motion to appeal the ruling of the Chair be laid on the table.

The motion that the motion to appeal the ruling of the chair be laid on the table was ruled out of order.

On the roll call the vote was yeas 30-B. Adams, J. Allen, Bevins, Boatwright, Brinkley, Brown, Burnette, Carpenter, Cooper, DeFalaise, Donnermeyer, Doss, Dunn, Foster, Hardwick, Hughes, Isler, Kenton, Maynard, Nett, O'Brien, Priddy, Richards, Robinson, Romines, Schmidt, R. Turner, Vincent, White, Wright. Nays 23-Bendl, Benson, Beshear, Clarke, Craddock, Cyrus, DeMarcus, Gray, Hopkins, Kidd, King, Kleier, LeMaster, Mann, Morris, Pearl, Siemens, Siler, Stephens, Tobin, Thomas, Wible, Wooden.

The ruling of the Chair that a quorum call was in order was sustained.

The Speaker resumed the Chair.

Representative Robinson moved that a call of the roll be taken to determine a quorum.

Representative Burnette moved that the House adjourn until 2:00 p.m., February 17, 1976.

The motion that the House adjourn until 2:00 p.m., February 17, 1976, was ruled out of order.

Representative Wible moved that the ruling of the Chair concerning the call to determine a quorum be appealed, since a quorum had already been determined by previous roll calls. (Representatives Wible and Beshear signed the appeal.)

The Speaker ruled that Representative Robinson's motion be acted upon.

The Speaker vacated the Chair.

Representative B. Richardson presiding.

Representative DeFalaise moved that the motion to appeal the ruling of the Chair be laid on the table.

The motion that the motion to appeal the ruling of the Chair be laid on the table was ruled out of order.

On the roll call the vote was yeas 26-B. Adams, Blythe, Brinkley, Carpenter, Clarke, Cyrus, DeMarcus, Doss, Foster, Gray, Hopkins, Hughes, Kenton, Kleier, LeMaster, Maynard, McBee, Morris, O'Brien, Richards, B. Richardson, Romines, R. Turner, Vincent, Wells, White. Nays 12-Bendl, Beshear, Craddock, Kidd, King, Mann, Pearl, Stephens, Tobin, Thomas, Wible, Wooden.

The ruling of the Chair that a quorum call was in order was sustained.

The Speaker resumed the Chair.

Representative Robinson moved that a call of the roll be taken to determine a quorum.

The Speaker announced that the roll be taken to determine if fifteen members desired a quorum call.

On the roll call the vote was yeas 21-B. Adams, Bevins, Boatwright, Brinkley, Burnette, Carpenter, Cooper, Dietz, Donnermeyer, Dunn, Foster, Hardwick, Hughes, Isler, Maynard, Priddy, Rattliff, Robinson, Vincent, White, Wright. Nays 2-Mann, Thomas.

A call of the roll showed 21 members desired a quorum call.

The Speaker requested the Sergeant at Arms to secure the Chamber doors.

The Speaker requested the roll to be called by the Clerk.

Representative Robinson withdrew the motion that a call of the roll be taken to determine a quorum. Agreed.

The Speaker declared a quorum was present.

Representative Nett filed Floor Amendment No. 1 to **HB 523.**

Representative Tobin moved that **HJR 7** be recommitted to the Committee on Judiciary-Statutes.

Adjournment

Representative B. Richardson moved that the House adjourn until 2:00 p.m., Tuesday, February 17, 1976.

On the roll call the vote was yeas 36-B. Adams, J. Allen, Bennett, Bevins, Blandford, Boatwright, Brinkley, Burnette, Carpenter, Cooper, Dietz, Donnermeyer, Doss, Dunn, Foster, Hardwick, Holloway, Hughes, Isler, Kenton, Maynard, McBee, Nett, O'Brien, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Robinson, Romines, Schmidt, R. Turner, Vincent, Wells, Wright. Nays 25-Bendl, Benson, Beshear, Blythe, Brown, Clarke, Craddock, Cyrus, DeMarcus, Gray, Hancock, Hopkins, Kidd, King, LeMaster, Mann, Pearl, Siemens, Siler, Stephens, Tobin, Thomas, White, Wible, Wooden.

The motion to adjourn was adopted.

TUESDAY, FEBRUARY 17, 1976

THIRTY-SECOND LEGISLATIVE DAY

The House was called to order by Speaker Kenton.

Prayer by Reverend John C. Chenault, First Christian Church, Frankfort.

The roll was called. All present except Representatives Clapp, Clarke, and Kleier.

Representative Isler moved that absent members be granted leave of absence in accordance with the prevailing rules of the House. Agreed.

Representative Hughes moved that the reading of the Journal of February 13, 1976, be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HB 533, by Representatives Gray, Cyrus, Bennett, Doss, and Siemens: AN ACT relating to labor relations.

HB 534, by Representative Hancock: AN ACT relating to the Kentucky Employes Retirement System.

HB 535, by Representative Hopkins: AN ACT relating to funerals.

HB 536, by Representatives Guenthner, Wooden, Kleier, and Yates: AN ACT relating to occupational therapy.

HB 537, by Representative Blythe: AN ACT relating to education.

HB 538, by Representative Beshear: AN ACT relating to retirement of state employes.

HB 539, by Representative Siemens: AN ACT relating to taxes.

HB 540, by Representative Mann: AN ACT relating to social workers.

HB 541, by Representatives Mann and Fitzgerald: AN ACT relating to abandoned animals.

HB 542, by Representative Donnermeyer: AN ACT relating to the construction of public works.

HB 543, by Representative Little: AN ACT relating to motor vehicle licenses.

HB 544, by Representative Wible: AN ACT relating to judicial support agencies and personnel.

HR 53, by Representatives Romines and Priddy: A RESOLUTION to adjourn the House of Representatives on Tuesday, February 17, 1976 in memory of Paul Priddy.

HR 54, by Representative Dawahare: A RESOLUTION expressing the opinion of the House of Representatives that Hazard Community College be converted to a four year institution.

Senate Message

Announcing passage of **SB 117, SB 181,** and **HB 141** with Title Amendment.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **HB 520, HB 528.**

Banking and Insurance: **HB 521.**

Cities: **HB 527.**

Education: **HB 522, SB 113.**

Elections and Constitutional Amendments: **HB 530.**

Judiciary-Courts: **HB 524, HB 526.**

Judiciary-Statutes: **HB 525, HB 531, HB 532.**

Public Utilities and Transportation: **HJR 50.**

State Government: **HB 523, HB 529, SB 39, SB 150.**

Report of Committees

The Committee on Banking and Insurance reported **HB 408, HB 422,** and **HB 473** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 408, AN ACT relating to petty loan companies.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 288.530 is amended to read as follows:

(1) Every licensee may lend any sum of money not exceeding *$1,500* [$1,200], excluding charges, and may charge contract for and receive thereon charges not in excess of *3 percent per month on that part of the unpaid principal balance not in excess of $500 and 2 percent per month on that part of the unpaid principal balance exceeding $500 but not exceeding $1,200 and 1 1/2 percent per month on that part of the unpaid principal balance exceeding $1,200 but not exceeding $1,500. Such rates shall be computed on scheduled unpaid principal balances of the cash advance for the full term of the loan contract* [$20.00 per $100 on that part of the cash advance (the cash or its equivalent received by the borrower or paid out on his behalf or at his direction or request) not exceeding $300 and $16.00 per $100 on that part of the cash advance exceeding $300 but not exceeding $800 and $13.00 per $100 on that part of the cash advance exceeding $800 but not exceeding $1,200, when the loan is made payable over a period of one (1) year, and, proportionately at those rates for a greater or a lesser amount, within said limits, or over a longer or shorter term of loan, and such rates shall be computed on the full amount of the cash advance for the full term of the loan contract, notwithstanding any agreement to repay the loan in instalments]. Such charges shall be added to the cash advance and the resulting sum shall become the face amount of the note.

(2) For the purposes of computation, whether at the maximum rate or less, a month shall be that period of time from any date in a month to the corresponding date in the next month and if there is no such corresponding date then to the last day of such month, and a day shall be considered one-thirtieth (1/30) of a month when such computation is made for a fraction of a month. The portion of the charges applicable to any particular monthly instalment period, as originally scheduled or following a deferment, shall bear the same ratio to the total charges, excluding any adjustments made pursuant to subsection (3) of this section, as the balance scheduled to be outstanding during that monthly period bears to the sum of all monthly balances scheduled originally by the contract of loan.

(3) A licensee and borrower may agree that the first instalment date may be not more than fifteen (15) days more than one (1) month and the amount of such instalment may be increased by one-thirtieth (1/30) of the portion of the charges applicable to a first instalment period of one (1) month for each extra day.

(4) If one-half (1/2) or more of any instalment remains unpaid more than seven (7) days after it is due, the licensee may charge and collect a default charge not exceeding two cents (2¢) for each dollar of the

scheduled instalment, and such charge may be collected for each full month thereafter the instalment remains unpaid.

(5) If the payment of all wholly unpaid instalment on which no default charge has been collected is deferred one or more full months, the licensee may charge and collect a deferment charge not exceeding two cents (2¢) for each one dollar ($1.00) of the sum of the instalment so deferred, multiplied by the number of months the maturity of the contract is extended; Provided, however, That such number of months shall not exceed the number of instalments which are due and wholly unpaid or due within fifteen (15) days from the date of deferment. The deferment charge may be collected at the time of deferment or at any time thereafter. Any payment received at the time of deferment may be applied first to the deferment charge and the remainder, if any, applied to the unpaid balance of the contract, provided, however, that if such payment is sufficient to pay, in addition to the appropriate deferment charge, any instalment which is in default and the applicable default charge, it shall be first so applied and any such instalment shall not be deferred or subject to the deferment charge. At the time a deferment is made the borrower shall be given a statement or receipt showing the amount of the deferment charge, the date and amount of the next scheduled payment and the number of remaining scheduled payments.

(6) If the contract of loan is prepaid in full by cash, a new loan or otherwise before the final instalment date, the portion of the charges applicable to the full instalment periods following the instalment date nearest the date of prepayment shall be refunded. Any default or deferment charges which are due and unpaid may be deducted from such refund. The tender by the borrower or at his request of an amount equal to the unpaid balance less the required refund must be accepted by the licensee in full payment of the contract. If judgment is obtained before the final instalment date the contract balance shall be reduced by the refund which would be required for prepayment in full as of the date judgment is obtained. No refund of less than one dollar ($1.00) need be made; no refund for partial prepayments need be made.

(7) If two (2) or more full instalments are in default for one (1) full month or more at any instalment date and if the contract so provides, the licensee may reduce the contract balance by the refund or credit which would be required for prepayment in full on such instalment date. Thereafter, in lieu of charging, collecting or receiving charges as provided in subsections (1) to (6) inclusive of this section, charges may be charged, collected and received as provided by subsection (8) of this section until the contract is fully paid.

(8) In lieu of computing and collecting charges as provided in subsections (1) to (6) inclusive of this section a licensee may contract for, collect and receive on loans of *$1,500* [$1,200] or less charges *as permitted in subsection (1) computed on the unpaid principal balance of the loan at time of payment* [not exceeding 3 per cent per month on that part of the unpaid principal balance of the loan not in excess of $300 and 2 per cent per month on that part of the unpaid principal balance exceeding $300 but not exceeding $1,000 and 1 per cent per month on that part of the unpaid principal balance exceeding $1,000 but not exceeding $1,200]. Such charges shall not be paid, deducted, received in advance or compounded but shall be computed, collected and received only on unpaid principal balances for the time actually outstanding. The definition of a month and of a day in subsection (2) of this section shall apply for the purposes of such computations.

(9) If part or all of the consideration for a contract of loan is the unpaid principal balance of a prior loan with the same licensee then the principal amount payable under such contract of loan shall not include any unpaid charges on the prior loan except such charges which have accrued within sixty (60) days before the mailing of such new contract of loan and may include the balance remaining after giving the refund required by subsection (6) of this section.

(10) In addition to the charges provided for in this chapter no further charge or amount whatsoever for any examination, service, brokerage, commission, expense, fee, or bonus or other thing shall be directly or indirectly charged, contracted for, or received, except the lawful fees actually and necessarily paid out by the licensee to any public official for filing, recording or releasing in any public office any instrument securing the loan; the identifiable charge of premium for insurance provided for in KRS 288.560; or fees for noting or releasing a lien on or transferring a certificate of title to any motor vehicle offered as security for a loan made under this chapter. If any amount in excess of the amounts authorized by this chapter is charged, contracted for or received, except as the result of an accidental or bona fide error, the contract of loan shall be void and the lender shall have no right to collect or receive any principal, charges or recompense whatsoever.

(11) No licensee shall induce or permit any borrower to split up or divide any loan nor permit any one borrower or any husband or wife individually or together to become indebted to him under more than one contract of loan at the same time if the actual amount of the indebtedness on any one of such contracts is in the amount or of the value of *$1,500* [$1,200] or less and there is charged, contracted for, or received thereon, directly or indirectly, by any device, subterfuge, or pretense whatsoever, any interest, or consideration therefor greater than would otherwise be permitted by this chapter.

(12) No licensee shall directly or indirectly charge, contract for or receive any interest or consideration greater than the lender would be permitted by law to charge if he were not a licensee hereunder upon any loan in the amount or of the value of more than *$1,500* [$1,200] excluding charges, or in any case in which the licensee permits any individual as borrower, indorser, guarantor, or surety for any borrower, or otherwise, to

owe on any loan or loans directly or contingently, or both, to the licensee at any time the sum of more than *$1,500* [$1,200] for principal, excluding charges.

HB 422, AN ACT relating to motor vehicle reparations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 304.39-060 is amended to read as follows:

(1) Any person who registers, operates, maintains or uses a motor vehicle on the public roadways of this Commonwealth shall, as a condition of such registration, operation, maintenance or use of such motor vehicle and use of the public roadways, be deemed to have accepted the provisions of this subtitle, and in particular those provisions which are contained in this section *if he has consented to the limitations of his tort rights and liabilities as described in subsection (4).*

(2) (a) Tort liability with respect to accidents occuring in this Commonwealth and arising from the ownership, maintenance, or use of a motor vehicle is "abolished" for damages because of bodily injury, sickness or disease to the extent the basic reparation benefits provided in this subtitle are payable therefor, or that would be payable but for any deductible authorized by this subtitle, under any insurance policy or other method of security complying with the requirements of this subtitle, except to the extent non-economic detriment qualifies under subsection (2)(b) hereof.

(b) In any action of tort brought against the owner, registrant, operator or occupant of a motor vehicle with respect to which security has been provided as required in this subtitle, or against any person or organization legally responsible for his acts or omissions, a plaintiff may recover damages in tort for pain, suffering, mental anguish and inconvenience because of bodily injury, sickness or disease arising out of the ownership, maintenance, operation or use of such motor vehicle only in the event that the benefits which are payable for such injury as "medical expense" or which would be payable but for any exclusion or deductible authorized by this subtitle exceed one-thousand dollars ($1,000), or the injury or disease consists in whole or in part of permanent disfigurement, a fracture to a weight-bearing bone, a compound, comminuted, displaced or compressed fracture, loss of a body member, permanent injury within reasonable medical probability, permanent loss of bodily function or death. Any person who is entitled to receive free medical and surgical benefits shall be deemed in compliance with the requirements of this subsection upon a showing that the medical treatment received has an equivalent value of at least one-thousand dollars ($1,000).

(c) Tort liability is not so limited for injury to a person who is not an owner, operator, maintainer or user of a motor vehicle within subsection (1) of this section.

(3) For purposes of this section and the provisions on reparation obligor's rights of reimbursement, subrogation, and indemnity, a person does not intentionally cause harm merely because his act or failure to act is intentional or done with his realization that it creates a grave risk of harm.

(4) Any person may [refuse to] consent to the limitations of his tort rights and liabilities as contained in this section. Such *consent* [rejection] must be in writing in a form to be prescribed by the department of insurance and must have been executed and filed with the department at a time prior to any motor vehicle accident for which such *consent* [rejection] is to apply. Such *consent* [rejection] form together with a reasonable explanation thereof shall be furnished by the reparation obligor with each policy to each prospective insurance applicant. Such *consent* [rejection] form shall affirmatively state in bold print that acceptance of this form of insurance denies the applicant the right to sue a negligent motorist unless certain requirements contained in the policy of insurance are met. *Consent* [Rejection] by a person who is under legal disability shall be made on behalf of such person by his legal guardian or his natural parent. [The failure of such guardian or a natural parent of a person under legal disability to file a rejection, within six (6) months from the date that this subtitle would otherwise become applicable to such person, shall be deemed to be an affirmative acceptance of all provisions of this subtitle.] Provided, however, any person who, at the time of an accident, who does not have basic reparation insurance but has not formally *consented to* [rejected] such limitations of his tort rights and liabilities and has at such time in effect security equivalent to that required by KRS 304.39-110 shall be deemed to have *not consented to* [fully rejected] such limitations within meaning of this section for that accident only.

(5) Any *consent* [rejection] must be filed with the department of insurance and shall be for a period of five (5) years from the date of its execution unless revoked in writing. A copy of such *consent* [rejection or revocation] must be filed with each insurance company providing an automobile policy under which the individual is a named insured as defined in the policy.

(6) Every insurance company when issuing an automobile policy to a resident of this Commonwealth must inform the buyer in writing in a form to be prescribed by the insurance commissioner of his right to *consent to* [reject] the limitations of his tort rights and liabilities under this subtitle in the manner provided in subsections (4) and (7) of this section.

(7) *Any failure to consent* [Any rejection] shall result in the full retention by the individual of his tort rights and his tort liabilities. [Any person injured by a motor vehicle operator who has such rejection on file may claim his full damages, including nonpecuniary damages, or, if such injured person has not rejected his own tort limitations, he may also claim basic reparation benefits from the appropriate security on the vehicle as established under KRS 304.39-050. If such provider of security is other than the one providing security for the operator who has rejected the limitations, such provider shall be subrogated to the rights of the injured person to the extent of reparation benefits paid against the owner and operator of the vehicle.]

(8) *Only persons who have consented to* [No person who has rejected] the tort limitations under this section, except as provided in subsection (9) of this section or KRS 304.39-140(5), may collect basic reparation benefits.

(9) Any owner or operator of a motorcycle, as defined in Kentucky Revised Statutes, may file a *consent* [rejection] as described in subsections (4) and (5), which will apply solely to the ownership and operation of a motorcycle but will not apply to injury resulting from the ownership, operation or use of any other type of motor vehicle.

Section 2. KRS 304.39-140 is amended to read as follows:

(1) On and after June 21, 1974, each reparation obligor of the owner of a vehicle required to be registered in this Commonwealth shall, upon the request of a reparation insured, be required to provide added reparation benefits for economic loss in units of ten thousand dollars ($10,000) per person subject to the lesser of:

(a) Forty-thousand dollars ($40,000) in added reparation benefits; or

(b) The limit of security provided for liability to any one (1) person in excess of the requirements of KRS 304.39-110(1)(a).

(2) Each basic reparation obligor shall be permitted to incorporate in added reparation benefits coverage such terms, conditions and exclusions as may be consistent with premiums charged. The amounts payable under added reparation benefits may be duplicative of benefits received from collateral source benefits, or may provide for reasonable waiting periods, deductibles or coinsurance provision. The added reparation obligor shall be subrogated, subject to KRS 304.39-070 and 304.39-300, to the injured person's right of recovery against any responsible third party.

(3) If the injured person, or injured persons, is entitled to damages under KRS 304.39-060 from the liability insurer of a second person, a self-insurer or an obligated government, collection of such damages shall have priority over the rights of the subrogee for its reimbursement of added reparation benefits paid to or in behalf of such injured person or persons.

(4) Basic reparation insurers shall make available upon request deductibles in the amounts of two hundred fifty dollars ($250), five hundred dollars ($500) and one thousand dollars ($1,000) from all basic reparation benefits otherwise payable, except that if two (2) or more basic reparation insureds to whom the deductible is applicable under the contract of insurance are injured in the same accident, the aggregate amount of the deductible applicable to all of them shall not exceed the specified deductible, which amount where necessary shall be allocated equally among them. Any person who is a basic reparation insured under an insurance policy issued with no deductible or with a deductible of a lesser amount than that under which he receives basic reparation benefits payments, shall be entitled to be paid under such policy the difference between the benefits he is actually paid and the benefits which would have been paid had his benefits been payable under such policy.

(5) Reparation obligors shall make available upon request to those persons who have *failed to consent to limitations of their tort liability* [rejected their tort limitations], in accordance with KRS 304.39-060(4), basic reparation benefits coverage and added reparation benefits.

Section 3. KRS 304.39-310 is amended to read as follows:

(1) All reparation obligors shall be obligated to provide to a reparation insured or an insured person who has *not consented to* [rejected] his tort limitations as provided in KRS 304.39-060 a certificate or other evidence of insurance whenever coverage required by KRS 304.39-110 is issued or renewed upon policy anniversary date;

(2) An owner or registrant of a motor vehicle with respect to which security is required under KRS 304.39-110, who fails to have such security when the motor vehicle is involved in an accident shall have all the rights and obligations of a reparation obligor, and any other reparation obligor which has paid or may become obligated to pay basic or added reparation benefits to an injured person under a basic or added reparation contract or under the terms of the assigned claims plan shall be subrogated to the rights of the injured person against such owner or registrant.

HB 473, AN ACT relating to insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 304.39-110 is amended to read as follows:

(1) The requirement of security for payment of tort liabilities is fulfilled by providing, *except as provided in KRS 304.39-140(4)*:

(a) Liability coverage of not less than ten-thousand dollars ($10,000) for all damages arising out of bodily injury sustained by any one person as a result of any one accident, and not less than twenty thousand dollars ($20,000) for all damages arising out of bodily injury sustained as a result of any single accident caused by accident arising out of ownership, maintenance, use, loading, or unloading, of the secured vehicle;

(b) Liability coverage of not less than five thousand dollars ($5,000) for all damages arising out of damage to or destruction of property, including the loss of use thereof, as a result of any one accident arising out of ownership, maintenance, use, loading, or unloading, of the secured vehicle; and

(c) That the liability coverages apply to accidents during the contract period in a territorial area not less than the United States of America, its territories and possessions, and Canada.

(2) Subject to the provisions on approval of terms and forms, the requirement of security for payment of tort liabilities may be met by a contract the coverage of which is secondary or excess to other applicable valid and collectible liability insurance. To the extent the secondary or excess coverage applies to liability within the minimum security required by this subtitle it must be subject to conditions consistent with the system of required liability insurance established by this subtitle.

Section 2. KRS 304.39-140 is amended to read as follows:

(1) On and after June 21, 1974, each reparation obligor of the owner of a vehicle required to be registered in this Commonwealth shall, upon the request of a reparation insured, be required to provide added reparation benefits for economic loss in units of ten thousand dollars ($10,000) per person subject to the lesser of:

(a) Forty-thousand dollars ($40,000) in added reparation benefits; or

(b) The limit of security provided for liability to any one (1) person in excess of the requirements of KRS 304.39-110(1)(a).

(2) Each basic reparation obligor shall be permitted to incorporate in added reparation benefits coverage such terms, conditions and exclusions as may be consistent with premiums charged. The amounts payable under added reparation benefits may be duplicative of benefits received from collateral source benefits, or may provide for reasonable waiting periods, deductibles or coinsurance provision. The added reparation obligor shall be subrogated, subject to KRS 304.39-070 and 304.39-300, to the injured person's right of recovery against any responsible third party.

(3) If the injured person, or injured persons, is entitled to damages under KRS 304.39-060 from the liability insurer of a second person, a self-insurer or an obligated government, collection of such damages shall have priority over the rights of the subrogee for its reimbursement of added reparation benefits paid to or in behalf of such injured person or persons.

(4) *Insurers providing contracts including all coverages required by this subtitle shall at appropriately reduced premium rates* [Basic reparation insurers shall] make available upon request deductibles in the amounts of two hundred fifty dollars ($250), five hundred dollars ($500) and one thousand dollars ($1,000) from all basic reparation benefits *and liability coverages* otherwise payable, except that if two (2) or more basic reparation insureds to whom the deductible is applicable under the contract of insurance are injured in the same accident, the aggregate amount of the deductible applicable to all of them shall not exceed the specified deductible, which amount where necessary shall be allocated equally among them. Any person who is a basic reparation insured under an insurance policy issued with no deductible or with a deductible of a lesser amount than that under which he receives basic reparation benefits payments, shall be entitled to be paid under such policy the difference between the benefits he is actually paid and the benefits which would have been paid had his benefits been payable under such policy.

(5) Reparation obligors shall make available upon request to those persons who have rejected their tort limitations, in accordance with KRS 304.39-060(4), basic reparation benefits coverage and added reparation benefits.

The Committee on Cities reported **HB 353, HB 377,** and **HB 475** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 353, AN ACT relating to police departments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 95.710 is amended to read as follows:

To be eligible for appointment as a member of the police force or fire department of a city of the fourth or fifth class, except cities of the fourth class which have adopted KRS 95.761 to 95.784, a person must be a citizen of the state, a resident of the county for at least six (6) months, at least twenty-one (21) years of age, able to read and write the English language intelligibly, and sober, moral and sagacious. No person who has been convicted of a felony is eligible for appointment. After appointment no member shall interfere in any election. [If it is possible to secure such a person, the appointee shall have been a resident of the city for at least six (6) months in addition to the other required qualifications; but should the city legislative body determine a person meeting this added qualification cannot be secured, a residence of six (6) months in the county is sufficient.]

Section 2. KRS 95.762 is amended to read as follows:

(1) The commission shall require all applicants for appointments as members of the police or fire departments to be examined as to their qualifications to fill the office of policeman or fireman, and as to their knowledge of the English language, and as to the law and rules governing the duties of policemen and firemen. Every member of the police or fire department shall be a *citizen of the state, a resident of the county for at least six (6) months prior to his appointment* [qualified voter of the city in which appointed], and shall be able to read and write and understand the English language, and have such other general qualifications as may be prescribed.

(2) No person shall be appointed a member of the police or fire departments unless he is well known to be a person of sobriety and integrity, and has been and is an orderly, law-abiding citizen, nor shall any person be appointed as a member of said police or fire departments on account of any political, partisan service rendered by him or on account of political sentiments or affiliations, or who is under twenty-one (21) years of age or over forty (40), unless the applicant has had as much as five (5) years' experience as a regular policeman or fireman and is not over fifty-five (55) years of age. No member of the police or fire departments shall be removed or discharged or reduced in grade or pay for any political partisan opinion. The appointment and continuance upon the police and fire departments shall depend solely upon the ability and willingness of a person to comply with the rules of the said departments and to perform the duties of said departments. No appointment to or continuance as a member of a police or fire department shall be as a reward for political activity nor be obtained by political services or contributions to campaign funds, nor shall any member of said department pay or collect any assessments made by political organizations, or contribute to political campaign funds, or be unduly active in politics or work for the election of candidates for office.

(3) The examination and qualifications provided for in this section shall not apply to the members of the regular police and fire departments at this time, who have been continuously in the service for a period of three (3) years.

(4) Members of police and fire departments otherwise qualified under this law shall hold their positions during good behavior, provided, however, that the provisions of KRS 95.761 to 95.785 shall not prevent the said city legislative body from increasing or decreasing the number of policemen or firemen, as may be deemed proper from time to time, and provided further, that in the event the said city legislative body decreases the number of policemen or firemen, the youngest member in point of service shall be the first to be reduced and returned to the eligible list and to advance according to the rules and regulations of said department.

(5) The civil service commission may provide that appointments for initial permanent employment may be probationary appointments for a period of not more than six (6) months, after which probationary period regular appointments shall be given to all probationary employes who are deemed to be satisfactory by the respective appointing authority.

HB 377, AN ACT relating to buildings.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 80.620 is amended to read as follows:

(1) As used in KRS 80.620 to 80.720, unless the context requires otherwise:

(a) "Structure" means any building, or part thereof, used or occupied, or intended for use or occupancy, for human habitation, or commercial or industrial purposes, and includes any outbuildings and appurtenances belonging thereto or usually enjoyed therewith.

(b) "Governing body" means the general council, board of commissioners, or other legislative body, charged with governing a city, and the fiscal court of any county.

(c) "Public officer" means the officer or officers who are authorized by ordinances and resolutions adopted hereunder to exercise the powers prescribed by such ordinances and resolutions and by KRS 80.620 to 80.720.

(d) "Public authority" means any housing authority or any officer who is in charge of any department or branch of the government of the city, county or state relating to health, fire, building regulations, or to other activities concerning structures in the city.

(e) "Owner" means the holder of the title in fee simple and every mortgagee of record.

(f) "Parties in interest" means all individuals, associations and corporations who have interests of record in a structure and any who are in possession thereof.

(g) "Hearing officer" means an officer or officers (not the public officer or officers) who are authorized by ordinances and resolutions adopted hereunder to exercise the powers prescribed by such ordinances and resolutions and by KRS 80.620 to 80.720.

(2) The powers conferred upon cities and counties by KRS 80.620 to 80.720 shall be in addition and supplemental to the powers conferred by any other law.

Section 2. KRS 80.650 is amended to read as follows:

Whenever a petition is filed with the public officer by a public authority or by at least five (5) residents of the city or county charging that any structure is unfit for human habitation, occupancy or use, or whenever it appears to the public officer (on his own motion) that any structure is unfit for human habitation, occupancy or use, the public officer shall, if his preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner of and parties in interest in such structure a complaint stating the charges in that respect. The complaint shall state: That a hearing will be held before *a hearing officer appointed by the city or county legislative body* [the public officer (or his designated agent)] at a place therein fixed not less than ten (10) days nor more than thirty (30) days after the serving of the complaint; that the owner and parties in interest may file an answer to the complaint and appear in person, or otherwise, and give testimony at the place and time fixed in the complaint; and that the rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the *hearing* [public] officer. *If the owners of or parties in interest in such structure are not residents of Kentucky, or if service has been by publication, the hearing shall be held not less than thirty (30) days nor more than forty-five (45) days after the serving of the complaint or final date of such publication.*

Section 3. KRS 80.660 is amended to read as follows:

If, after the notice and hearing, the *hearing* [public] officer determines that the structure under consideration is unfit for human habitation, occupancy or use, he shall state in writing his findings of fact in support of such determination. *Further* [and shall issue and cause to be served upon the owner thereof an order requiring the owner]:

(1) If he determines that the repair, alteration, or improvement of the structure can be made at a cost that is not more than fifty (50) percent of the value of the structure, he shall issue and cause to be served upon the owner thereof an order requiring the owner, to the intent and within the time specified in the order, to repair, alter or improve the structure to render it fit for human habitation, occupancy or use, or, at the option of the owner, to vacate and close the structure;

(2) If he determines that the repair, alteration, or improvement of the structure can be made only at a cost that is more than fifty (50) percent of the value of the structure, he shall issue and cause to be served upon the owner thereof an order requiring the owner to remove or demolish the structure, or, at the option of the owner, to repair, alter or improve the structure within six (6) months from the date of the order. The hearing officer may specify actions which must be accomplished by specific dates within said six (6) month period which are required to protect the public health and safety or demonstrate reasonable progress by the owner toward compliance with the order of the hearing officer. Should the owner choose to repair, alter or improve the structure, he shall notify the public officer of his decision within 30 days of the issuance of the order;

(3) In any case where the structure under consideration presents an imminent and immediate threat to the safety of persons or other property, the hearing officer shall, regardless of any other provisions of an order he may issue regarding the structure, issue and cause to be served upon the owner thereof an order directing the owner to immediately remove or correct within the time specified in the order those conditions which cause the threat to the safety of persons or other property;

(4) In any case where there is no known address for an owner and parties in interest, and said owner and parties in interest have not answered the complaint after service by publication, the hearing officer may order the public officer to do any of those actions described in subsections (1), (2) and (3) of this section as may be justified by the condition of the structure.

[(1) To the intent and within the time specified in the order, to repair, alter or improve the said structure to render it fit for human habitation, occupancy or use, or, at the option of the owner, to vacate and close the structure if the repair, alteration, or improvement of the structure can be made at a cost that is not more than 50 per cent of the value of the structure; or

(2) Within the time specified in the order, to remove or demolish the said structure if the repair, alteration, or improvement of the structure cannot be made at a cost that is not more than 50 per cent of the value of the structure.]

Section 4. KRS 80.670 is amended to read as follows:

(1) If the owner fails to comply with an order to repair, alter or improve or, at the option of the owner, to vacate and close the structure, the public officer may cause the structure to be repaired, altered or improved, or to be vacated and closed. The public officer may cause to be posted on the main entrance of any structure so closed, a placard with the following words: "This building is unfit for human habitation, occupancy or use; the use or occupation of this building for human habitation, occupancy or use, is prohibited and unlawful."

(2) If the owner fails to comply with an order to remove or demolish the structure, *or if he fails to complete within the required time limits those repairs, alterations or improvements he elected to undertake under the provisions of KRS 80.660(2)* the public officer may cause such structure to be removed or demolished.

(3) If the owner fails to comply with an order to correct those conditions which present an imminent and immediate threat to the safety of persons or other property, the public officer shall cause those conditions to be removed or corrected.

(4) [(3)] The amount of the cost of repairs, alterations or improvements, or vacating and closing, or removal or demolition, *or removal or correction of conditions presenting an imminent and immediate threat to the safety of persons or other property authorized by this section or KRS 80.660(4)* shall be a lien upon the real property upon which cost was incurred *and such lien shall be of equal status with a tax lien.* If the structure is removed or demolished by the public officer, he shall sell the materials of the structure and shall credit the proceeds of such sale against the cost of the removal or demolition and any balance remaining shall be deposited in the circuit court by the public officer, shall be secured in such manner as may be directed by such court, and shall be disbursed by such court to the persons found to be entitled thereto by final order or decree of such court.

Section 5. KRS 80.680 is amended to read as follows:

The *hearing* [public] officer may determine that a structure is unfit for human habitation, occupancy or use if he finds that conditions exist in such structure which are dangerous or injurious to the health, safety or morals of the occupants of such structure, the occupants of neighboring structures or other residents of the city or county. Such conditions may include the following (without limiting the generality of the foregoing): Defects increasing the hazards of fire, accident, or other calamities; lack of adequate ventilation, light, or sanitary facilities; dilapidation; disrepair; structural defects; uncleanliness. Additional standards to guide the public officer, or his agents, in determining the fitness of a structure for human habitation, occupancy or use, may be provided by ordinance or resolution.

Section 6. KRS 80.685 is amended to read as follows:

When the *hearing* [public] officer has condemned as unfit for human habitation, occupancy or use, any structure, pursuant to the provisions of KRS 80.620 through 80.720, and has ordered same to be vacated, the public officer may, after ten (10) days' notice to the occupant or occupants thereof, apply to the justice of the peace for the district in which such structure is located, and obtain from such court an order of eviction against the occupant or occupants thereof, and the constable for the said district shall forthwith evict such occupant or occupants and his belongings from the said building.

Section 7. KRS 80.690 is amended to read as follows:

(1) Complaints [or orders] issued by a public officer pursuant to an ordinance or resolution adopted under KRS 80.620 to 80.720 shall be served upon persons either personally or by certified mail, *return receipt requested. If the certified letter is undeliverable or* [but] if the whereabouts of such person is unknown and the same cannot be ascertained by the public officer in the exercise of reasonable diligence, and the public officer shall make an affidavit to that effect, then the serving of such complaint [or order] upon such persons *shall* [may] be made by publication pursuant to KRS chapter 424. A copy of such complaint [or order] shall be posted in a conspicuous place on premises affected by the complaint [or order], and shall be recorded in the office of the county clerk of the county wherein the structure is located.

(2) Orders issued by a hearing officer pursuant to an ordinance or resolution adopted under KRS 80.620 to 80.720 shall be served upon persons either personally or by certified mail, return receipt requested.

Section 8. KRS 80.700 is amended to read as follows:

Any person affected by an order issued by the *hearing* [public] officer may, within thirty (30) days after the posting and service of the order, petition the circuit court for an injunction restraining the public officer from carrying out the provisions of the order, and the court may issue a temporary injunction restraining the public officer pending the final disposition of the cause. Hearings shall be had by the court on such petition within twenty (20) days, or as soon thereafter as possible. In all such proceedings the findings of the public officer as to facts, if supported by evidence, shall be conclusive. Costs shall be in the discretion of the court. The remedies herein provided shall be exclusive remedies and no person affected by an order of the *hearing* [public] officer shall be entitled to recover any damages for action taken pursuant to any order of the *hearing* [public] officer, or because of noncompliance by such person with any order of the *hearing* [public] officer.

Section 9. KRS 80.710 is amended to read as follows:

(1) The governing body of the city or county may by ordinance or resolution authorize the public officer to exercise such powers as are necessary or convenient to carry out and effectuate the purposes and provisions of KRS 80.620 to 80.720, including the following powers in addition to others herein granted:

(a) [(1)] To investigate the structural conditions in the city or county in order to determine which structures therein are unfit for human habitation, occupancy or use;

[(2) To administer oaths, affirmations, examine witnesses and receive evidence;]

(b) [(3)] To enter upon premises for the purpose of making examination, but such entries shall be made in such manner as to cause the least possible inconvenience to the persons in possession;

(c) [(4)] To appoint and fix the duties of such officers, agents and employes as he deems necessary to carry out the purposes of the ordinances; and

(d) [(5)] To delegate any of his functions and powers under the ordinances to such officers and agents as he designates.

(2) The governing body of the city or county may by ordinance or resolution authorize the hearing officer to exercise such powers as are necessary or convenient to carry out and effectuate the purposes and provisions of KRS 80.620 to 80.720, including, in addition to others herein granted, the power to administer oaths; affirmations, examine witnesses and receive evidence.

HB 475, AN ACT relating to municipal bonds.

WHEREAS, amendments to federal tax and securities statutes in recent years have created a federal classification of certain municipal bonds under the designation "industrial development bonds," which bonds may, in certain instances, be subject to federal income taxation, and which bonds are required, if publicly sold, to be offered through an offering circular containing information on any private corporation connected with the project, which information may not be available to the municipality; and

WHEREAS, in the operation of a municipal system for the distribution of natural gas under the provisions of KRS 96.170, it has been determined by the Court of Appeals in the recent case of Haney v. City of Somerset, handed down on November 26, 1975, that a city is required under existing statutes to offer its revenue bonds for a project, deemed to be an "industrial development bond project" under federal law, at a public sale; and

WHEREAS, such public sale would require, under the aforesaid federal statutory amendments, that an offering circular include information which may be unobtainable as to any private company purchasing and transporting gas in connection with the city's project; and

WHEREAS, the Court of Appeals, in said opinion, has indicated that the city to which its opinion was applicable, and all other cities operating under KRS 96.170 in a like situation, could be authorized to meet the federal requirements for industrial development bonds by appropriate legislative enactment, and it is the intent of the General Assembly, by this Act, to resolve this apparent conflict between federal and state requirements in a manner which will make it possible for cities to finance projects in such situations, with appropriate safeguards,

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 96 IS CREATED TO READ AS FOLLOWS:

The legislative body of any city operating a municipal system for the acquisition and distribution of natural gas under the authority of KRS 96.170 may, by ordinance, authorize the issuance of revenue bonds to pay all or any part of the costs of any project for the improvement or extension of said system, or for obtaining new sources of supply. Said revenue bonds may be sold and issued in the manner provided for the sale and issuance of revenue bonds under the provisions of KRS 58.010 to 58.140, inclusive, or, upon a determination of said legislative body, acting upon the advice of the city attorney or city solicitor, that the proposed bonds will be industrial development bonds within the meaning of federal statutes, said revenue bonds, whether or not exempt from federal income taxation, may be sold in any manner provided for the sale of industrial building revenue bonds under the terms of KRS 103.200 to 103.285, inclusive; provided, however, that the contract with the private corporation which is deemed to give rise to the federal classification of industrial development bonds need not take the form of a lease agreement, and no request in writing from any contracting private corporation shall be required for any negotiated sale, and provided, further, that in the event of a negotiated sale, a report of negotiations shall be made to a consultant who shall be employed by the city to make a recommendation to the legislative body on the adequacy of such negotiations and of the terms of sale in the light of market conditions. The provisions of KRS 424.360 shall not apply to any negotiated sale under this Section.

Section 2. Whereas the scarcity of natural gas in many areas of the Commonwealth has created shortages which will result in a lack of heat and power if immediate development of new sources of gas is not undertaken, and such development cannot be financed in all instances under present statutes, an emergency is declared to exist, and this Act shall take effect upon its passage and approval by the Governor, or upon the date it shall constitutionally become effective without the Governor's signature.

The Committee on Education reported **HB 70** with Committee Substitute and Committee Amendment to the Committee Substitute attached thereto, **HB 71, HB 73** with Committee Substitute attached thereto, and **HB 249** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 70, AN ACT relating to career education.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 158 is created to read as follows:
This Act shall be known as "The Career Education Act of 1976."

Section 2. A new section of KRS Chapter 158 is created to read as follows:
As used in this Act, unless the context otherwise requires:
(1) "Department" means the State Department of Education;
(2) "Competencies" means the possession of skills, knowledge, and understandings to the degree they can be demonstrated;
(3) "Career education" means that life-centered educational process through which students are presented with information, activities, and guidance in the areas of basic learning and academic skill development, self and career awareness, occupational exploration and orientation, and preparation for career decision making designed to:
(a) increase the relationship between school and society as a whole;
(b) provide opportunities for counseling, guidance, and career development;
(c) relate the subject matter of the curriculum of school to the needs of persons to function fully in society.
(d) extend the concept of the education process beyond the school into the area of employment and the community;
(e) foster flexibility in attitudes, skills and knowledge in order to enable persons to cope with accelerating change and obsolescence;
(f) make education more relevant to employment and functioning in society; and
(g) eliminate the distinction between education for vocational purposes and general or academic education.

Section 3. A new section of KRS Chapter 158 is created to read as follows:
It is the intention of the General Assembly in enacting this legislation to emphasize the right of each student in the common schools of this state to obtain the basic knowledge and learning skills necessary for life preparation as the first priority of public education. It is further the intention of the General Assembly to guarantee to each student in the common schools the opportunity to avail himself of those programs and

services appropriate to his educational needs in the areas of basic academic and learning skill development; career awareness, exploration, and orientation leading to the ability to make informed career choices; acquiring the knowledge and understanding necessary to cope with life situations; and enabling continued personal education and enrichment through learning experiences designed to prepare each student with skills necessary for pursuing continued personal interests.

Section 4. A new section of KRS Chapter 158 is created to read as follows:

The Department of Education shall administer the provisions of this Act, pursuant to regulations adopted by the State Board of Education upon recommendation of the Superintendent of Public Instruction. In administering this Act, the department shall take into consideration the advice of the Secretary for Education and the Arts, the Secretary for Human Resources, and the Secretary for Consumer Protection and Regulation, or their designated representatives, and any other representative of a related agency or body deemed appropriate by the State Board of Education, including, but not limited to, representatives of professional educators, parents, guidance personnel active in the conduct of the schools, and members of the business community.

Section 5. A new section of KRS Chapter 158 is created to read as follows:

(1) Career education shall be conducted in the elementary, secondary, post secondary, and adult education programs administered by the Department of Education under authority of the State Board of Education as a process incorporated into the total curriculum and in conjunction with courses in any appropriate area of study.

(2) Career education shall include, but not be limited to, the areas of:

(a) Personal development, including the development of competencies necessary to acquire basic learning skills; communicate; compute using the basic processes; acquire knowledge and skills through continued learning; make informed decisions relating to career and life development; apply acquired knowledge and skills to real-life situations; pursue personal interests and enrichment; and obtain and apply knowledge of physical fitness, nutrition, and mental health to life-long personal health maintenance;

(b) Career and occupational awareness, including information, activities and guidance procedures of the career education concept designed to develop the understanding and ability necessary to make career choices, to cope with the changing economic and occupational environment, and to develop occupational and education competencies necessary for employment and continued education;

(c) Economic understanding, including knowledge of economic systems, information on tax structures and obligations, understanding of personal and family money management, and the competencies required for the application of such knowledge and understanding to consumer practices;

(d) Citizenship, including the rights and responsibilities of citizenship in the community, state, nation, and world social and political orders;

(e) Family life, including information and activities designed to develop an understanding of the role of the individual in family life, the rights and responsibilities incumbent upon each role participant, the responsibilities and duties of marriage and parenthood, and the theories and practices of child rearing and early childhood development; and

(f) Human relations, including knowledge of the relationship of the individual to his social, cultural, natural, and political environments, and understanding of the worth and dignity of other people, and the skills and understanding required in developing an ability to work with and relate to other individuals and groups, and an appreciation of the historical and cultural heritage and values of his environment and that of others.

(3) Career education shall be sequential in nature and suited to meet the needs of the students at their respective grade levels.

Section 6. A new section of KRS Chapter 158 is created to read as follows:

The department shall develop a comprehensive statewide program of career education by assuming the following functions:

(1) Assist in the development and dissemination of model curricula in career education for the public schools, in conjunction with the programs of local boards of education and the institutions of higher education responsible for teacher education;

(2) Identify and disseminate information relating to innovative teaching methods for instruction in career education;

(3) Assist local school districts in evaluating the effectiveness of a program in career education, including assisting in the development of methods for determining the achievement of competencies deemed necessary and appropriate by the department and the State Board of Education to demonstrate the practical results of such program;

(4) Assist local school districts in conducting teacher in-service education programs on career education based on a training program developed by the department in conjunction with the institutions of higher

education responsible for teacher education;

(5) Assist teacher education institutions in the development of a program designed to prepare teachers to utilize the theories and methods required of a program of career education;

(6) Administer pilot projects on career education in the public schools and conduct teacher in-service education programs when so requested by local school districts; and

(7) Assist in the design and implementation of career education guidance programs and services deemed appropriate by the department.

Section 7. A new section of KRS Chapter 158 is created to read as follows:

The governing board of each local school district shall adopt a policy regarding career education by resolution in accordance with the guidelines and regulations approved by the State Board of Education, and consistent with the provisions of this Act, specifying among other things the curriculum or program to be utilized in career education, provisions for teacher in-service education, assistance to teachers and guidance personnel in implementation of such program, and the procedures by which parents, community members, and others may provide input to the program.

Section 8. A new section of KRS Chapter 158 is created to read as follows:

Nothing in this Act shall be interpreted as prohibiting any local school district, superintendent, principal, teacher or counselor from inviting qualified persons in the areas of career education from outside the school system to assist the teacher or counselor in classroom programs or to present programs to all or any part of the student body in a manner consistent with policy and regulation of the local board of education, the State Board of Education, and the provisions of this Act.

Section 9. A new section of KRS Chapter 158 is created to read as follows:

To assure effective implementation of this Act, the department shall, upon passage, institute planning, research, employment of appropriate personnel, and program implementation, and shall develop and submit to the Governor, the Legislative Research Commission, and the State Board of Education a comprehensive plan for achieving the priorities and programs set forth in Sections 3 and 5 of this Act. Such plan shall include, but not be limited to, the curriculum areas involved in the program; the method by which the program is to be presented in the common schools; procedures for development of model curricula, assisting in providing teacher in-service education and guidance services, and cooperative arrangements established for such purposes with local school districts and institutions of higher education responsible for teacher education.

Section 10. A new section of KRS Chapter 158 is created to read as follows:

(1) The department, in cooperation with representatives of agencies set forth in Section 4 of this Act, shall develop a plan of accountability acceptable to the General Assembly to assure the effectiveness of the priorities and programs of Sections 3 and 5 of this Act.

(2) Prior to October 1, 1977, the department shall submit to the Governor and the General Assembly the plan of accountability, required in subsection (1) of this section, for approval.

Section 11. To carry out the purposes of this Act, there is appropriated to the State Department of Education out of the General Fund in the State Treasury the sum of $2,755,000 for the 1976-77 fiscal year and the sum of $1,845,000 for the 1977-78 fiscal year.

Section 12. Whereas, the current economic conditions of our society require immediate action designed to assist present and future citizens of the Commonwealth of Kentucky in obtaining the basic educational knowledge and skills required for full participation in our society and for coping with changing living conditions, an emergency is declared to exist, and this Act shall become effective upon its passage and approval by the Governor.

The Committee Substitute for **HB 70** is as follows;

HB 70, AN ACT relating to career education.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 158 is created to read as follows:

This Act shall be known as "The Career Education Act of 1976."

Section 2. A new section of KRS Chapter 158 is created to read as follows:

As used in this Act, unless the context otherwise requires:

(1) "Department" means the State Department of Education;

(2) "Competencies" means the possession of skills, knowledge, and understandings to the degree they can be demonstrated;

(3) "Career education" means that life-centered educational process through which students are presented with information, activities, and guidance in the areas of basic learning and academic skill development, self and career awareness, occupational exploration and orientation, and preparation for career decision making designed to:

(a) increase the relationship between school and society as a whole;

(b) provide opportunities for counseling, guidance, and career development;

(c) relate the subject matter of the curriculum of school to the needs of persons to function fully in society.

(d) extend the concept of the education process beyond the school into the area of employment and the community;

(e) foster flexibility in attitudes, skills and knowledge in order to enable persons to cope with accelerating change and obsolescence;

(f) make education more relevant to employment and functioning in society; and

(g) clarify the distinction between education for vocational purposes and general or academic education.

Section 3. A new section of KRS Chapter 158 is created to read as follows:

It is the intention of the General Assembly in enacting this legislation to emphasize the right of each student in the public schools of this state to obtain the basic knowledge and learning skills necessary for life preparation as the first priority of public education. It is further the intention of the General Assembly to guarantee to each student in the public schools the opportunity to avail himself of those programs and services appropriate to his educational needs in the areas of basic academic and learning skill development; career awareness, exploration, and orientation leading to the ability to make informed career choices; acquiring the knowledge and understanding necessary to cope with life situations; and enabling continued personal education and enrichment through learning experiences designed to prepare each student with skills necessary for pursuing continued personal interests.

Section 4. A new section of KRS Chapter 158 is created to read as follows:

The Department of Education shall administer the provisions of this Act, pursuant to regulations adopted by the State Board of Education upon recommendation of the Superintendent of Public Instruction. In administering this Act, the department shall take into consideration the advice and counsel of the Secretary for Education and the Arts, the Secretary for Human Resources, and the Secretary for Consumer Protection and Regulation, or their designated representatives, and any other representative of a related agency or body deemed appropriate by the State Board of Education, including, but not limited to, representatives of professional educators, parents, guidance personnel active in the conduct of the schools, and members of the business community, as well as representatives of students participating in career education, and persons representative of the various regions of the state including both rural and urban residents.

Section 5. A new section of KRS Chapter 158 is created to read as follows:

(1) Career education shall be conducted in the elementary, secondary, post secondary, and adult education programs administered by the Department of Education under authority of the State Board of Education as a process incorporated into the total curriculum and in conjunction with courses in any appropriate area of study.

(2) Career education shall include, but not be limited to, the areas of:

(a) Personal development, including the development of competencies necessary to acquire basic learning skills; communicate; compute using the basic processes; acquire knowledge and skills through continued learning; make informed decisions relating to career and life development; apply acquired knowledge and skills to real-life situations; pursue personal interests and enrichment; and obtain and apply knowledge of physical fitness, nutrition, and mental health to life-long personal health maintenance;

(b) Career and occupational awareness, including information, activities and guidance procedures of the career education concept designed to develop the understanding and ability necessary to make career choices, to cope with the changing economic and occupational environment, and to develop occupational and education competencies necessary for employment and continued education;

(c) Economic understanding, including knowledge of economic systems, information on tax structures and obligations, understanding of personal and family money management, and the competencies required for the application of such knowledge and understanding to consumer practices;

(d) Citizenship, including the rights and responsibilities of citizenship in the community, state, nation, and world social and political orders;

(e) Family life, including information and activities designed to develop an understanding of the role of the individual in family life, the rights and responsibilities incumbent upon each role participant, the responsibilities and duties of marriage and parenthood, and the theories and practices of child rearing and early childhood development; and

(f) Human relations, including knowledge of the relationship of the individual to his social, cultural, natural, and political environments, and understanding of the worth and dignity of other people, and the skills and understanding required in developing an ability to work with and relate to other individuals and groups, and an appreciation of the historical and cultural heritage and values of his environment and that of others.

(3) Career education shall be sequential in nature and suited to meet the needs of the students at their respective grade levels.

Section 6. A new section of KRS Chapter 158 is created to read as follows:

The department shall develop a comprehensive statewide program of career education by assuming the following functions:

(1) Assist in the development and dissemination of model curricula in career education for the public schools, in conjunction with the programs of local boards of education and the institutions of higher education responsible for teacher education;

(2) Identify and disseminate information relating to innovative teaching methods for instruction in career education;

(3) Assist local school districts in evaluating the effectiveness of a program in career education, including assisting in the development of methods for determining the achievement of competencies deemed necessary and appropriate by the department and the State Board of Education to demonstrate the practical results of such program;

(4) Assist local school districts in conducting teacher in-service education programs on career education based on a training program developed by the department in conjunction with the institutions of higher education responsible for teacher education;

(5) Assist teacher education institutions in the development of a program designed to prepare teachers to utilize the theories and methods required of a program of career education;

(6) Assist in the conduct of teacher in-service education programs when so requested by local school districts; and

(7) Assist in the design and implementation of career education guidance programs and services deemed appropriate by the department.

Section 7. A new section of KRS Chapter 158 is created to read as follows:

The governing board of each local school district shall adopt a policy regarding career education by resolution in accordance with the guidelines and regulations approved by the State Board of Education, and consistent with the provisions of this Act, specifying among other things the curriculum or program to be utilized in career education, provisions for teacher in-service education, assistance to teachers and guidance personnel in implementation of such program, and the procedures by which parents, community members, and others may provide input to the program.

Section 8. A new section of KRS Chapter 158 is created to read as follows:

Nothing in this Act shall be interpreted as prohibiting any local school district, superintendent, principal, teacher or counselor from inviting qualified persons in the areas of career education from outside the school system to assist the teacher or counselor in classroom programs or to present programs to all or any part of the student body in a manner consistent with policy and regulation of the local board of education, the State Board of Education, and the provisions of this Act.

Section 9. A new section of KRS Chapter 158 is created to read as follows:

To assure effective implementation of this Act, the department shall, upon passage, institute planning, research, employment of appropriate personnel, and program implementation, and shall develop and submit to the Governor, the Legislative Research Commission, and the State Board of Education a comprehensive plan for achieving the priorities and programs set forth in Sections 3 and 5 of this Act. Such plan shall include, but not be limited to, the curriculum areas involved in the program; the method by which the program is to be presented in the public schools; procedures for development of model curricula, assisting in providing teacher in-service education and guidance services, and cooperative arrangements established for such purposes with local school districts and institutions of higher education responsible for teacher education.

Section 10. A new section of KRS Chapter 158 is created to read as follows:

(1) Each local school district desiring to receive funding for career education programs and teacher in-service training shall make application to the department for such funds. Each district application shall include, but not be limited to, a description of the career education program to be implemented, the number of students in the district who will be participating in the program, and the number of teachers who will be participating in in-service training. The department may provide that additional information, if required in determining grants to local school districts, be included in such application.

(2) Each local school district desiring to receive funding under the provisions of this Act shall make application, as provided in subsection (1) of this section, to the department no later than July 1 of the year in which career education is to be implemented in the educational program of the district.

(3) Of the total funds appropriated to carry out the provisions of this Act, the State Department of Education shall retain no more than two and one-half percent (2 1/2%) for administration services.

(4) Grants to local school districts shall be made in amounts proportionate to the number of teachers requiring in-service training and the number of students who will participate in the program under guidelines established by the department.

Section 11. To carry out the purposes of this Act, there is appropriated to the State Department of Education out of the General Fund in the State Treasury the sum of $2,050,000 for the 1976-77 fiscal year. Any balance remaining at the close of fiscal year 1976-77 shall not lapse, but shall continue into fiscal year 1977-78.

Section 12. Whereas, the current economic conditions of our society require immediate action designed to assist present and future citizens of the Commonwealth of Kentucky in obtaining the basic educational knowledge and skills required for full participation in our society and for coping with changing living conditions, and emergency is declared to exist, and this Act shall become effective upon its passage and approval by the Governor.

The Committee Amendment to the Committee Substitute for **HB 70** is as follows:

Amend printed copy of Committee Substitute for **HB 70,** page 2, line 26: by deleting "guarantee to" and by adding in lieu thereof the word "provide"; and by adding the word "with" following the words "public schools"

page 6, lines 22 through 26: by deleting lines 22 through 26 in their entirety

page 7, lines 1 and 2: by deleting lines 1 and 2 in their entirety; line 3: by deleting "(4)" and by adding in lieu thereof "(3)"; lines 5, 6, and 7: by adding ";" following the word "department" on line 5, and by deleting lines 6 and 7 in their entirety; line 8: by deleting "(5)" and by adding in lieu thereof "(4)"; line 12: by deleting line 12 in its entirety, and by adding in lieu thereof the following: "(5) Provide funding for teacher in-service"; line 14: by adding "as provided in Section 10 of this Act" following "tricts"; line 15: by deleting "(7)" and by adding in lieu thereof "(6)"

page 9, line 16: by adding "including an evaluation design" following the word "implemented"

HB 71, AN ACT relating to special education.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 157.280 is amended to read as follows:

(1) If the number of children of compulsory school age in one (1) classification of exceptionality in a district is not sufficient to justify a special education program for that exceptionality in that district, or if a school district does not provide a special education program for that exceptionality, the board shall provide a program by contract with another county or independent district or private organization that maintains a special education program approved by the state board of education for that exceptionality, the amount not to exceed the amount designated by the state department of education for a child of that particular exceptionality. When a district or private organization undertakes, under operation of a tuition contract or of law, to provide in its classes for these pupils residing in another district, the district of residence of these pupils shall share the total cost of the special education program in proportion to the number of pupils or in accordance with contract agreement between the two (2) districts or district and private organization.

(2) The school board of the school district in which any child resides shall pay for his transportation to and from the program in the other school district or to the private organization. However, if the school board of the other district or the private organization providing the program also provides transportation, the cost of transportation shall be included in the total cost.

(3) If a child of compulsory school age is admitted for instruction at the Kentucky School for the Deaf or the Kentucky School for the Blind, under regulation of the State Board of Education and under provisions of KRS 167.015 to 167.150, the district in which the child resides shall provide transportation to and from the school on a regularly scheduled basis, at intervals of no less than once each month while the child is enrolled, either by individual district or in cooperation with other school districts on a regional basis, as approved by the State Board of Education upon recommendation of the Superintendent of Public Instruction.

HB 73, AN ACT relating to the levy of school taxes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 160 is created to read as follows:

As used in this Act, unless the context requires otherwise:

"Tax levying authority" shall mean boards of education of county school districts and independent school districts.

Section 2. KRS 160.460 is amended to read as follows:

(1) All school taxes shall be levied by the *board of education of each school district.* [fiscal court of each county except in independent school districts embraced by cities of the first four (4) classes. In such districts the tax shall be levied by the governing body of the city.] The tax-levying authority *may* [shall] levy such ad valorem tax and such poll tax [as specified by the district board of education] within the limits prescribed in KRS 160.475, which will obtain for the school district the amount of money needed as shown in such district's general school budget submitted under the provisions of KRS 160.470.

(2) The tax-levying authority shall make an annual school levy not later than July 1. The school levy shall not be made until the general school budget has been received *and approved* by the *state board of education* [tax-levying authority]. The failure of the authority to make the levy by the date prescribed shall not invalidate any levy made thereafter.

(3) All school taxes shall be levied on all property subject to local taxation in the jurisdiction of the tax-levying authority. If the school levy is to be made upon the city assessment as authorized in subsection (1), the clerk of such city shall furnish to the school district or districts which the city embraces, the assessed valuation of property subject to local taxation in the school district, as determined by its tax assessor. If the school levy is to be made upon the county assessment the county clerk shall furnish to the proper school district or districts the assessed valuation of property subject to local taxation in such district or districts, as certified by the Kentucky tax board of tax appeals.

Section 3. KRS 160.470 is amended to read as follows:

(1) Each district board of education shall prepare a general school budget on forms prescribed and furnished by the state board of education, showing the amount of money needed for current expenses, debt service, capital outlay, and other necessary expenses of the schools during the succeeding fiscal year, the estimated total amount that will be received from the common school fund and other sources, the assessed valuation of property subject to local taxation in the school district furnished as provided in subsection (3) of KRS 160.460, an estimate made by the department of revenue of public service company assessments and assessments of other property in the school district not furnished under the provisions of subsection (3) of KRS 160.460, and the amount that will be needed to be raised by local taxation, including the rate of levy necessary to raise such an amount.

(2) Notwithstanding any statutory provisions to the contrary, no district board of education shall submit a budget *to the state board of education* which would require more revenue from local ad valorem taxes than would be produced by application of the preceding year's rate to the preceding year's assessment, exclusive of voted levies and net assessment growth as defined in KRS 132.425, except as provided in subsection (3) of KRS 157.380 and as provided in subsection (4) of this section. In the event of a merger of school districts, the limitations contained in this section shall be based upon the combined revenue of the merging districts, as computed under the provisions of this section.

(3) The superintendent of public instruction shall certify to each district board of education, by June 1 of each year, the maximum permissible local ad valorem tax revenue. This amount shall be computed as follows:

(a) The superintendent of public instruction shall determine the total amount of ad valorem tax revenue which would be produced by application of the preceding year's rate to the preceding year's assessment.

(b) The superintendent of public instruction shall determine the total amount of ad valorem tax revenue which would be produced by application of the preceding year's effective tax rate to the net assessment growth in each school district. The net assessment growth as determined in accordance with KRS 132.425 shall be certified to the superintendent of public instruction by the department of revenue by May 20 of each year.

(c) The superintendent of public instruction shall compile a list of those school districts in which the general fund ad valorem tax for the 1965-1966 school year was levied at a rate less than the $1.50 maximum then authorized by KRS 160.475. The superintendent of public instruction shall then calculate for each such district the revenue that would have been produced for the 1965-1966 school year if such tax had been levied at the $1.50 rate. He shall then re-calculate the maximum permissible local ad valorem tax revenue that would have been authorized for each such district for the 1966-1967, 1967-1968, 1968-1969 and 1969-1970 school years as though the 1965-1966 tax had been levied at the $1.50 rate, including in such re-calculation the revenue that would have been derived from taxation of net assessment growth under paragraph (b) of this subsection and the revenue that would have been derived from any percentage increases actually adopted by the district under subsection (4) of this section. The maximum permissible local ad valorem tax revenue so re-calculated for the 1969-1970 school year shall, for such districts, be deemed the total amount of ad valorem tax revenue to be determined by the superintendent for the 1970-1971 school year under paragraph (a) of this subsection.

(d) The sum of the amounts computed under paragraphs (a) and (b) of this subsection shall be the maximum permissible local ad valorem tax revenue for purposes of subsection (2) of this section, except as otherwise therein prescribed.

(e) Any school district which is not contemplating capital construction and which is eligible for the increase allowed in paragraph (c) of this subsection may elect to take advantage of the increase in equal stages over a period of three years.

(4) Notwithstanding the limitations contained in subsection (2) of this section, any district board of education which in preparing its proposed budget deems that it will require an amount of revenue greater than that permitted in subsection (2) of this section may submit to the *state board of education* [levying authority] for the school years 1966-1967 and 1967-1968 a budget which could require an increase in such revenue of not more than 10 per cent after compliance with the following:

(a) The district board of education shall give notice of any proposed increase in revenue. Notwithstanding any statutory provisions to the contrary, notice shall be given by causing to be published, at least one (1) time in a newspaper of general circulation published in the county or by posting at the courthouse door if there be no such newspaper, the fact that said increase of not exceeding 10 per cent is being proposed. Said advertisement shall state that the district board of education will meet at a place and on a day fixed in the advertisement, not earlier than one (1) week and not later than two (2) weeks from the date of the advertisement, for the purpose of hearing comments and complaints regarding the proposed increase and explaining the reasons for such proposal.

(b) The district board of education shall conduct a public hearing at the place and on the date advertised for the purpose of hearing comments and complaints regarding the proposed increase and explaining the reasons for such proposal.

(5) *Within three (3) days after the district board of education has received its assessment data, three* [Three] (3) copies of the budget shall be *forwarded to* [filed with] the *state board of education for its approval or disapproval.* [clerk of the tax-levying authority of the district within three (3) days after the district board of education has received its assessment data. The clerk shall present the budget to the proper tax-levying authority when the authority convenes to fix its school levy.] The failure of the district board of education to furnish the budget within the time prescribed shall not invalidate any levy made thereafter.

(6) [Within three (3) days after the tax-levying authority has fixed the tax rate, the district board of education shall forward two (2) copies of the budget to the state board of education for its approval or disapproval.] The budget shall be disapproved *by the state board of education* if it is financially unsound or fails to provide for: (a) Payment of maturing principal of and interest on any outstanding voted school improvement bonds of the school district authorized and issued pursuant to KRS 162.080 and 162.090, with the written approval of the state board of education, or (b) Payment of rentals in connection with any outstanding school building revenue bonds issued for the benefit of the independent school district or county school district, as the case may be, by the appropriate city or county as authorized and provided under the provisions of KRS 162.120 to 162.300, with the written approval of the state board of education, or fails to comply with the law; and the state board of education shall state its reason, or reasons, for such disapproval. In such event the district board of education shall amend its budget, within the limitations of this section, to obviate the reasons for disapproval.

(7) If the budget as amended specifies a tax levy different from that levied under the disapproved budget, the tax-levying authority shall amend its levy in accordance therewith, so that the levy as amended

shall comply with the provisions of subsection (1) of KRS 160.460. No general school budget shall become effective until approved by the state board of education.

(8) Each district board of education shall, if required by the state board of education, prepare and submit to it not later than September 15, a close estimate or working budget which shall conform to the rules and regulations prescribed by the state board of education, and which shall be consistent in its major divisions with the general school budget previously prepared.

Section 4. KRS 160.476 is amended to read as follows:

(1) The board of education of any district may, in addition to other taxes [requested] for school purposes, [request the] levy [of] not less than four cents (4¢) nor more than twenty cents (20¢) on each one hundred dollars ($100) valuation of property subject to local taxation, to provide a special fund for the purchase of sites for school buildings, for the erection and complete equipping of school buildings, and for the major alteration, enlargement and complete equipping of existing buildings, provided, however, that such tax shall come within the maximum school tax levy provided by KRS 160.475. In addition to or in lieu of this special tax, any board of education may pay into this special fund at the close of any fiscal year the proceeds from the sale of land or property no longer needed for school purposes and all or any balances remaining in the general fund over and above the amount necessary for discharging obligations for the fiscal year in full.

(2) The special fund provided for herein shall be kept in a separate account designated as "school building fund." The fund shall be kept in a depository selected by the board of education, or invested in bonds of the United States, of this state, or county or municipality in this state, provided, however, that such investments shall be approved by the state board of education.

(3) All expenditures from such fund shall be made solely for the purposes enumerated herein and shall be made in accordance with the school laws of the state at such times as the board of education determines. The board of education shall cause to be made annually an audit of the building fund by a certified public accountant or by an accountant approved by the state department of education.

(4) Notwithstanding the provisions of any other subsection of this section to the contrary, for the 1966 tax year and for all subsequent years no district board of education shall [request the] levy *a tax at* [of] a rate under the provisions of this section which exceeds the compensating tax rate as defined in KRS 132.010. The superintendent of public instruction shall certify the compensating tax rate to the district board of education.

Section 5. KRS 160.477 is amended to read as follows:

(1) (a) Upon request of the board of education of any school district, the *county board of elections* [tax-levying authority of the district] shall [adopt an ordinance or resolution] submit[ting] to the qualified voters of the district, the question as to whether a special school building tax rate of not less than five cents (5¢) nor more than fifty cents (50¢) as requested by the board shall be levied on each $100 of property subject to local taxation. This tax levy shall be in addition to the maximum school tax levy provided by subsection (2) of KRS 160.470. The income from the tax shall be used for the purchase or lease of school sites and buildings, for the erection and complete equipping of new school buildings, for the major alteration, enlargement and complete equipping of existing buildings, for the purpose of retiring, directly or through rental payments, school revenue bonds issued for such school building improvements, and for the purpose of financing any program for the acquisition, improvement, or building of schools. The question shall be so framed that the voter may by his vote answer "for" or "against."

(b) The election shall be held [at a time fixed in the ordinance or resolution,] not less than fifteen (15) or more than thirty (30) days from the time the request of the board is filed with the *county board of elections,* [tax-levying authority,] and reasonable notice of the election shall be given. The election shall be conducted and carried out in the school district in all respects as required by the general election laws, and shall be held by the same officers as required by the general election laws. The expense of the election shall be borne by the *school district.* [fiscal court except where the election is held in a district embracing a city of the first five (5) classes, in which case the cost of the election shall be borne by the governing body of the city.]

(c) If a majority of those voting on the question favor the special school building tax levy, the tax-levying authority shall when the next tax rate for the district is fixed levy the special rate specified [by the board of education of the school district] for the school building fund in addition to the levy provided by subsection (2) of KRS 160.470.

(2) There may be included, in the maximum levy provided for in subsection (2) of KRS 160.470, a special levy for building fund purposes as authorized by KRS 160.476, which shall be in addition to the levy authorized by vote as provided in subsection (1) of this section.

(3) In addition to or in lieu of this special tax, any board of education may pay into this special fund at the close of any fiscal year the proceeds from the sale of land or property no longer needed for school purposes and allow any balances to remain in the general fund over and above the amount necessary for discharging obligations for the fiscal year in full.

(4) The special fund provided for in subsection (1) of this section shall be kept in a separate account designated as "special voted school building fund." The fund shall be kept in the depository selected by the district board of education, or invested in bonds of the United States, of this state, or of any county or municipality in this state, provided, however, that such investment shall be approved by the state board of education.

(5) All expenditures from such fund shall be made solely for the purposes enumerated in this section and shall be made in accordance with the school laws of the state at such times as the district board of education determines. The district board of education shall cause to be made annually an audit of the building fund by a certified public accountant or by an accountant approved by the state department of education.

(6) Notwithstanding the provisions of any other subsection of this section to the contrary, for the 1966 tax year and for all subsequent years no district board of education shall request the levy *a tax at* [of] a rate under the provisions of this section which exceeds the compensating tax rate as defined in KRS 132.010, except as provided in subsection (7) of this section, and except that a rate which has been approved by the voters under this section but which was not levied by the district board of education in 1965 may be levied after it has been reduced to the compensating tax rate as defined in KRS 132.010, and except that in any school district where the rate levied in 1965 was less than the maximum rate which had been approved by the voters, the compensating tax rate shall be computed and may be levied as though the maximum approved rate had been levied in 1965 and the amount of revenue which would have been produced from such maximum levy had been derived therefrom.

(7) Notwithstanding the limitations contained in subsection (6) of this section no tax rate shall be set lower than that necessary to provide such funds as are required to meet principal and interest payments on outstanding bonded indebtedness and payments of rentals in connection with any outstanding school revenue bonds issued under the provisions of KRS chapter 162.

Section 6. KRS 160.500 is amended to read as follows:

(1) School taxes shall be collected by the *sheriff for county school districts and by the* regular tax collector [s] *of the city* for the *independent school districts* [tax-levying authorities that make the school levies for the various school districts,] at the same time and in the same manner as other local taxes are collected, except as provided in this section and in KRS 160.510. The bond of the regular tax collector shall be made to cover his duties as the tax collector of the school district or districts for which he collects taxes. The tax collector shall be entitled to a fee at the rate of four per cent (4%) for the collection of school taxes, which fee may be charged only for collecting or receiving school taxes or school funds received from the local school levy. No allowance shall be made for the collection of school taxes to any collecting officer who continues to collect taxes after his term that would not be allowed him had he collected the taxes during his term.

(2) An independent school district may select a special tax collector to collect its school taxes, and in the event such independent school district does so select a special tax collector, a majority of the members of the independent school district board of education shall fix a fee for such special tax collector at a rate of not less than one per cent (1%) nor more than four per cent (4%) of the school taxes or school funds collected by such special tax collector from the local school levy in such independent school district. The special tax collector shall be required to execute bond in the same manner as provided in KRS 160.560 for the execution of a treasurer's bond, and the penal sum of the bond shall not be less than the aggregate of the tax bills that come into the hands of the special tax collector.

(3) The clerk shall include all school taxes on the regular tax bills furnished the tax collector except in case an independent district has selected a special tax collector, in which case the school taxes shall be listed by the clerk on a separate bill. The clerk shall be allowed a fee not to exceed three cents (3¢) for each separate school tax bill, to be paid by the independent district board of education.

Section 7. KRS 160.530 is amended to read as follows:

The money collected by taxation under the provisions of KRS 160.460 to 160.520 and other school money shall be expended by the board of education in accordance with the recommendations contained in the budget submitted to the *state board of education* [tax-levying authority].

Section 8. KRS 160.593 is amended to read as follows:

[(1)] Any board of education of a school district may, after compliance with the public hearing requirement contained in KRS 160.603, [request the fiscal court to] levy one (1) of the school taxes authorized by KRS 160.593 to 160.597, 160.601 to 160.633, 160.635 to 160.648. [The fiscal court shall levy, within fifteen (15) days of such request, the school tax at the rate requested and the levy shall take effect not less than thirty (30) days nor more than ninety (90) days after the passage of the order or resolution.] The imposition of any tax levied under the provisions of KRS 160.593 to 160.597, 160.601 to 160.633, and 160.635 to 160.648 shall be limited to the territory of the school district. [or districts requesting the levy. In those counties where one (1) of the taxes referred to by this section is in effect county-wide on June 21, 1974, the taxes shall continue to be levied on a county-wide basis. Revenue produced by such taxes shall be distributed on the basis of average daily attendance, as set forth in KRS 160.644, to those districts levying such taxes.]

[(2) Two or more boards of education within a county may make a joint request for the tax to be levied in their respective districts.]

Section 9. KRS 160.595 is amended to read as follows:

[The imposition of school taxes authorized by KRS 160.605 to 160.611, 160.613 to 160.617, 160.621 to 160.633 shall be by order or resolution of the fiscal court. No more than one such order or resolution shall be passed in any one calendar year, and no] *No* more than one school tax authorized by KRS 160.605 to 160.611, 160.613 to 160.617, 160.621 to 160.633 shall be in effect in any one district at any one time.

Section 10. KRS 160.597 is amended to read as follows:

Any [order or resolution of a fiscal court levying a] school tax authorized by KRS 160.593 to 160.597, 160.601 to 160.633, 160.635 to 160.648 may be recalled as follows:

(1) The order or resolution [of the fiscal court] levying any of the school taxes designated heretofore in this section shall go into effect not less than thirty (30) days nor more than ninety (90) days after its passage. [by the fiscal court.] If during the thirty (30) days immediately following the passage of the order or resolution a petition signed by a number of registered and qualified voters equal to fifteen per cent (15%) of the votes cast in the school district *levying* [requesting] the tax [levy] for the office receiving the greatest total vote at the last preceding presidential election is presented to the *school board* [fiscal court] protesting against passage of the order or resolution, the order or resolution shall be suspended from going into effect for that district until after the election provided for in subsection (2) of this section. In the event that more than one (1) school district within a county has *levied* [requested] the tax [levy], a separate petition meeting the requirements herein must be filed for each school district. The fifteen per cent (15%) requirement must be met in each respective participating school district. Each sheet of the petition shall contain the names and addresses of voters in but one (1) voting precinct and each sheet shall state the name, number, or designation of the precinct and, where applicable, the name, number or designation of the district or ward wherein the precinct is situated. Each voter shall sign his name in the same manner as he signed the current registration form described in KRS 117.630 or subsection (2) of KRS 117.720, as the case may be. If the signature is difficult to read, the voter shall, on the same line legibly write or print his name in the same fashion as he signed it. One or more persons shall verify by affidavit the signatures and addresses of the signers of the petition. The board or boards of registration in the county shall provide necessary and appropriate aid to the *school board* [fiscal court] so that the latter body may make the determination of whether the petition contains enough signatures of qualified voters to suspend the effect of the order or resolution.

(2) Thereupon, the fiscal court shall submit to the voters of the school district in which a valid recall petition has been filed pursuant to subsection (1) of this section at the next regular November election the question as to whether the tax shall be levied. The question shall be so framed that the voter may by his vote answer, "for" or "against." If a majority of the votes cast in a district upon the question oppose its passage, the order or resolution shall not go into effect in that district. If a majority of the votes cast in a district upon the question favor its passage, the order or resolution shall go into effect in that district. In the event that the election is to be held in more than one (1) school district within a county the votes shall be counted separately.

(3) In the event that the order or resolution includes more than one (1) school district within a county and a valid recall petition has not been filed as required by this section against one (1) or more of these school districts, the levy may be made in that school district or districts without regard to any recall petition pending or voted thereon in another school district within the county.

Section 11. KRS 160.603 is amended to read as follows:

No school district board of education shall [request the fiscal court to] levy any of the school taxes authorized by KRS 160.593 to 160.597, 160.601 to 160.633, 160.635 to 160.648 until after compliance with the following:

(1) The school district board of education [desiring to request the] levying of any one of these taxes shall give notice of any proposed [request for the] levy of one (1) of the school taxes. Notwithstanding any statutory provisions to the contrary, notice shall be given by causing to be published, at least one (1) time in a newspaper of general circulation published in the county or by posting at the courthouse door if there be no such newspaper, the fact that such *levy* [request] is being proposed. The advertisement shall state that the district board of education will meet at a place and on a day fixed in the advertisement, not earlier than one (1) week and not later than two (2) weeks from the date of the advertisement, for the purpose of hearing comments and complaints regarding the proposed increase and explaining the reasons for such proposal.

(2) The school district board of education shall conduct a public hearing at the place and on the date advertised for the purpose of hearing comments and complaints regarding the proposed *levy* [request] and explaining the reasons for such proposal.

(3) In the event that more than one school district within a county desires to [request] the *levy* [levying] of any one of these taxes, the boards of education shall make a joint advertisement and hold a joint hearing in the manner prescribed heretofore for an individual school district.

Section 12. KRS 160.611 is amended to read as follows:
No occupational license tax for schools shall be collected from any individual who is not a resident of the county of the *school district* [fiscal court] imposing the school tax.

Section 13. KRS 160.617 is amended to read as follows:
[The fiscal court may promulgate such regulations as may be necessary for the collection of the tax authorized by KRS 160.613.] Notwithstanding the provisions of KRS 278.040 (2), any utility required to pay the tax authorized by KRS 160.613 may increase its rates in any county in which it is required to pay the school tax by three per cent (3%). Any utility so increasing its rates shall separately state on the bills sent to its customers the amount of such increase and shall identify such amount as: "Rate increase for school tax."

Section 14. KRS 160.625 is amended to read as follows:
The school tax authorized by KRS 160.621 shall be self-assessing. Each county resident paying state individual income taxes under KRS chapter 141 shall file, on or before July 1 of each year for calendar year taxpayers and six (6) months after the close of the tax year for all other taxpayers, with the *proper tax collector* [county finance officer] a return showing his state individual income tax liability and the amount of county school tax due. This school tax shall be remitted with the return and shall be delinquent six (6) months after the close of the individual's tax year. The *district board of education* [county finance officer] shall furnish the necessary tax returns for the administration of this school tax.

Section 15. KRS 160.627 is amended to read as follows:
The department of revenue shall make available to the *tax collector* [county finance officer], by October 1 of each year, such information as he may request concerning the state income tax liability of county residents. Such information shall be made available on a confidential basis as provided in KRS 131.190.

Section 16. KRS 160.635 is amended to read as follows:
School taxes imposed under the provisions of KRS 160.593 to 160.597, 160.601 to 160.633, 160.635 to 160.648 shall remain in full force and effect from year to year until the board of education has certified [to the fiscal court a request for] a reduction of the rate in effect. [If a reduction in rate is requested, the fiscal court shall reduce the rate to the requested amount. The fiscal court may require the board of education to make an annual certification as to the need and necessity for the continuance of the current tax.] In the event that more than one board of education within a county has one of these taxes in effect, each board of education desiring a tax rate reduction shall provide an individual certification of the tax rate reduction desired for that district.

Section 17. KRS 160.637 is amended to read as follows:
Reasonable expenses incurred by any *tax collector* [fiscal court] for the administration or collection of the school taxes authorized by KRS 160.605 to 160.611, 160.613 to 160.617, 160.621 to 160.633 shall be reimbursed by the school district boards of education on a monthly basis or on such basis as may be agreed upon by the boards of education and the *tax collector* [fiscal court]. Such expenses shall be borne by the school districts on a basis proportionate to the revenue received by such districts.

Section 18. KRS 160.640 is amended to read as follows:
Any person having custody of the proceeds of any school tax authorized by KRS 160.605 to 160.611, 160.613 to 160.617, 160.621 to 160.633 shall be required to secure a corporate surety bond in an amount to be set by the *state board of education* [fiscal court]. The cost of the surety bond shall be considered a part of the cost of the administration of the school taxes authorized under KRS 160.605 to 160.611, 160.613 to 160.617, 160.621 to 160.633.

Section 19. KRS 160.648 is amended to read as follows:
(1) Any person, individual, or corporation required by the provisions of KRS 160.605 to 160.611, 160.613 to 160.617, 160.621 to 160.633 to file any return or report or furnish any information requested under the authority of KRS 160.605 to 160.611, 160.613 to 160.617, 160.621 to 160.633 who fails to file such return or report or furnish such information on or before the date required shall pay a penalty in the amount of ten dollars ($10.00) for each such failure.

(2) Any person, individual, or corporation who fails to pay, on or before the due date, any school tax authorized by KRS 160.605 to 160.611, 160.613 to 160.617, 160.621 to 160.633 and levied by the *district board of education* [fiscal court] shall pay a penalty of one per cent (1%) per month of the amount of such tax past

due until paid.

Section 20. KRS 160.623 and 160.646 are repealed.

The Committee Substitute for **HB 73** is as follows:

HB 73, AN ACT relating to the levy of school taxes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 160 is created to read as follows:

As used in this Act, unless the context requires otherwise:

"Tax levying authority" shall mean boards of education of county school districts and independent school districts.

Section 2. KRS 160.460 is amended to read as follows:

(1) All school taxes shall be levied by the *board of education of each school district.* [fiscal court of each county except in independent school districts embraced by cities of the first four (4) classes. In such districts the tax shall be levied by the governing body of the city.] The tax-levying authority shall levy *an* [such] ad valorem tax [and such poll tax as specified by the district board of education] within the limits prescribed in KRS *160.470* [160.475], which will obtain for the school district the amount of money needed as shown in *the* [such] district's general school budget submitted under the provisions of KRS 160.470.

(2) The tax-levying authority shall make an annual school levy not later than July 1. The school levy shall not be made until the general school budget has been received *and approved* by the *state board of education* [tax-levying authority]. The failure of the authority to make the levy by the date prescribed shall not invalidate any levy made thereafter.

(3) All school taxes shall be levied on all property subject to local taxation in the jurisdiction of the tax-levying authority. If the school levy is to be made upon the city assessment, *which is hereby authorized for independent school districts embraced by cities of the first four classes* [as authorized in subsection (1)], the clerk of such city shall furnish to the school district or districts which the city embraces, the assessed valuation of property subject to local taxation in the school district, as determined by its tax assessor. If the school levy is to be made upon the county assessment the county clerk shall furnish to the proper school district or districts the assessed valuation of property subject to local taxation in such district or districts, as certified by the Kentucky tax board of tax appeals.

Section 3. KRS 160.470 is amended to read as follows:

(1) Each district board of education shall prepare a general school budget on forms prescribed and furnished by the state board of education, showing the amount of money needed for current expenses, debt service, capital outlay, and other necessary expenses of the schools during the succeeding fiscal year, the estimated total amount that will be received from the common school fund and other sources, the assessed valuation of property subject to local taxation in the school district furnished as provided in subsection (3) of KRS 160.460, an estimate made by the department of revenue of public service company assessments and assessments of other property in the school district not furnished under the provisions of subsection (3) of KRS 160.460, and the amount that will be needed to be raised by local taxation, including the rate of levy necessary to raise such an amount.

(2) Notwithstanding any statutory provisions to the contrary, no district board of education shall submit a budget *to the state board of education* which would require more revenue from local ad valorem taxes than would be produced by application of the *maximum rate that could have been levied in the* preceding year ['s rate] to the preceding year's assessment, exclusive of voted levies and net assessment growth as defined in KRS 132.425, except as provided in subsection (3) of KRS 157.380 *and 157A.100.* [and as provided in subsection (4) of this section.] In the event of a merger of school districts, the limitations contained in this section shall be based upon the combined revenue of the merging districts, as computed under the provisions of this section.

(3) The superintendent of public instruction shall certify to each district board of education, by June 1 of each year, the maximum permissible local ad valorem tax revenue. This amount shall be computed as follows:

(a) The superintendent of public instruction shall determine the total amount of ad valorem tax revenue which would be produced by application of the *maximum rate that could have been levied in the* preceding year ['s rate] to the preceding year's assessment.

(b) The superintendent of public instruction shall determine the total amount of ad valorem tax revenue which would be produced by application of the *maximum rate that could have been levied in the* preceding year ['s effective tax rate] to the net assessment growth in each school district. The net assessment growth as determined in accordance with KRS 132.425 shall be certified to the superintendent of public instruction by the department of revenue by May 20 of each year.

[(c) The superintendent of public instruction shall compile a list of those school districts in which the general fund ad valorem tax for the 1965-1966 school year was levied at a rate less than the $1.50 maximum then authorized by KRS 160.475. The superintendent of public instruction shall then calculate for each such district the revenue that would have been produced for the 1965-1966 school year if such tax had been levied at the $1.50 rate. He shall then re-calculate the maximum permissible local ad valorem tax revenue that would have been authorized for each such district for the 1966-1967, 1967-1968, 1968-1969 and 1969-1970 school years as though the 1965-1966 tax had been levied at the $1.50 rate, including in such re-calculation the revenue that would have been derived from taxation of net assessment growth under paragraph (b) of this subsection and the revenue that would have been derived from any percentage increases actually adopted by the district under subsection (4) of this section. The maximum permissible local ad valorem tax revenue so re-calculated for the 1969-1970 school year shall, for such districts, be deemed the total amount of ad valorem tax revenue to be determined by the superintendent for the 1970-1971 school year under paragraph (a) of this subsection.]

(c) [(d)] The sum of the amounts computed under paragraphs (a) and (b) of this subsection shall be the maximum permissible local ad valorem tax revenue for purposes of subsection (2) of this section, except as otherwise therein prescribed.

[(e) Any school district which is not contemplating capital construction and which is eligible for the increase allowed in paragraph (c) of this subsection may elect to take advantage of the increase in equal stages over a period of three years.]

[(4) Notwithstanding the limitations contained in subsection (2) of this section, any district board of education which in preparing its proposed budget deems that it will require an amount of revenue greater than that permitted in subsection (2) of this section may submit to the *state board of education* [levying authority] for the school years 1966-1967 and 1967-1968 a budget which could require an increase in such revenue of not more than 10 per cent after compliance with the following:

(a) The district board of education shall give notice of any proposed increase in revenue. Notwithstanding any statutory provisions to the contrary, notice shall be given by causing to be published, at least one (1) time in a newspaper of general circulation published in the county or by posting at the courthouse door if there be no such newspaper, the fact that said increase of not exceeding 10 per cent is being proposed. Said advertisement shall state that the district board of education will meet at a place and on a day fixed in the advertisement, not earlier than one (1) week and not later than two (2) weeks from the date of the advertisement, for the purpose of hearing comments and complaints regarding the proposed increase and explaining the reasons for such proposal.

(b) The district board of education shall conduct a public hearing at the place and on the date advertised for the purpose of hearing comments and complaints regarding the proposed increase and explaining the reasons for such proposal.]

(4) [(5)] *Within three (3) days after the district board of education has received its assessment data, three* [Three] (3) copies of the budget shall be *forwarded to* [filed with] the *state board of education for its approval or disapproval.* [clerk of the tax-levying authority of the district within three (3) days after the district board of education has received its assessment data. The clerk shall present the budget to the proper tax-levying authority when the authority convenes to fix its school levy.] The failure of the district board of education to furnish the budget within the time prescribed shall not invalidate any levy made thereafter.

(5) [(6)] [Within three (3) days after the tax-levying authority has fixed the tax rate, the district board of education shall forward two (2) copies of the budget to the state board of education for its approval or disapproval.] The budget shall be disapproved *by the state board of education* if it is financially unsound or fails to provide for: (a) Payment of maturing principal of and interest on any outstanding voted school improvement bonds of the school district authorized and issued pursuant to KRS 162.080 and 162.090, with the written approval of the state board of education, or (b) Payment of rentals in connection with any outstanding school building revenue bonds issued for the benefit of the independent school district or county school district, as the case may be, by the appropriate city or county as authorized and provided under the provisions of KRS 162.120 to 162.300 *and KRS 58.010 to 58.140,* with the written approval of the state board of education, or fails to comply with the law; and the state board of education shall state its reason, or reasons, for such disapproval. In such event the district board of education shall amend its budget, within the limitations of this section, to obviate the reasons for disapproval *and resubmit the budget to the state board of education for its final approval.*

(6) [(7)] If the budget as amended specifies a tax levy different from that levied under the disapproved budget, the tax-levying authority shall amend its levy in accordance therewith, so that the levy as amended

shall comply with the provisions of subsection (1) of KRS 160.460. No general school budget shall become effective *and no ad valorem levy shall be made* until approved by the state board of education.

(7) [(8)] Each district board of education shall, if required by the state board of education, prepare and submit to it not later than September 15, a close estimate or working budget which shall conform to the rules and regulations prescribed by the state board of education, and which shall be consistent in its major divisions with the general school budget previously prepared.

Section 4. KRS 160.476 is amended to read as follows:

(1) The board of education of any district may, in addition to other taxes [requested] for school purposes, [request the] levy [of] not less than four cents (4c) nor more than twenty cents (20¢) on each one hundred dollars ($100) valuation of property subject to local taxation, to provide a special fund for the purchase of sites for school buildings *and physical education and athletic facilities*, for the erection and complete equipping of school buildings *and physical education and athletic facilities*, and for the major alteration, enlargement and complete equipping of existing buildings *and physical education and athletic facilities*, provided, however, that such tax shall come within the maximum school tax levy provided by KRS *160.470* [160.475]. In addition to or in lieu of this special tax, any board of education may pay into this special fund at the close of any fiscal year the proceeds from the sale of land or property no longer needed for school purposes and all or any balances remaining in the general fund over and above the amount necessary for discharging obligations for the fiscal year in full.

(2) The special fund provided for herein shall be kept in a separate account designated as "school building fund." The fund shall be kept in a depository selected by the board of education, or invested in bonds of the United States, of this state, or county or municipality in this state, provided, however, that such investments shall be approved by the state board of education.

(3) All expenditures from such fund shall be made solely for the purposes enumerated herein and shall be made in accordance with the school laws of the state at such times as the board of education determines. The board of education shall cause to be made annually an audit of the building fund by a certified public accountant or by an accountant approved by the state department of education.

(4) Notwithstanding the provisions of any other subsection of this section to the contrary, for the 1966 tax year and for all subsequent years no district board of education shall [request the] levy *a tax at* [of] a rate under the provisions of this section which exceeds the compensating tax rate as defined in KRS 132.010. The superintendent of public instruction shall certify the compensating tax rate to the district board of education.

Section 5. KRS 160.477 is amended to read as follows:

(1) (a) Upon request of the board of education of any school district, the *county board of elections* [tax-levying authority of the district] shall [adopt an ordinance or resolution] submit[ting] to the qualified voters of the district, the question as to whether a special school building tax rate of not less than five cents (5c) nor more than fifty cents (50¢) as requested by the board shall be levied on each $100 of property subject to local taxation. This tax levy shall be in addition to the maximum school tax levy provided by subsection (2) of KRS 160.470. The income from the tax shall be used for the purchase or lease of school sites and buildings *and physical education and athletic facilities*, for the erection and complete equipping of new school buildings *and physical education and athletic facilities*, for the major alteration, enlargement and complete equipping of existing buildings *and physical education and athletic facilities*, for the purpose of retiring, directly or through rental payments, school revenue bonds issued for such school [building] improvements, and for the purpose of financing any program for the acquisition, improvement, or building of *school improvements* [schools]. The question shall be so framed that the voter may by his vote answer "for" or "against."

(b) The election shall be held [at a time fixed in the ordinance or resolution,] not less than fifteen (15) or more than thirty (30) days from the time the request of the board is filed with the *county board of elections,* [tax-levying authority,] and reasonable notice of the election shall be given. The election shall be conducted and carried out in the school district in all respects as required by the general election laws, and shall be held by the same officers as required by the general election laws. The expense of the election shall be borne by the *school district.* [fiscal court except where the election is held in a district embracing a city of the first five (5) classes, in which case the cost of the election shall be borne by the governing body of the city.]

(c) If a majority of those voting on the question favor the special school building tax levy, the tax-levying authority shall when the next tax rate for the district is fixed levy the special rate specified [by the board of education of the school district] for the school building fund in addition to the levy provided by subsection (2) of KRS 160.470.

(2) There may be included, in the maximum levy provided for in subsection (2) of KRS 160.470, a special levy for building fund purposes as authorized by KRS 160.476, which shall be in addition to the levy authorized by vote as provided in subsection (1) of this section.

(3) In addition to or in lieu of this special tax, any board of education may pay into this special fund at the close of any fiscal year the proceeds from the sale of land or property no longer needed for school

purposes and allow any balances to remain in the general fund over and above the amount necessary for discharging obligations for the fiscal year in full.

(4) The special fund provided for in subsection (1) of this section shall be kept in a separate account designated as "special voted school building fund." The fund shall be kept in the depository selected by the district board of education, or invested in bonds of the United States, of this state, or of any county or municipality in this state, provided, however, that such investment shall be approved by the state board of education.

(5) All expenditures from such fund shall be made solely for the purposes enumerated in this section and shall be made in accordance with the school laws of the state at such times as the district board of education determines. The district board of education shall cause to be made annually an audit of the building fund by a certified public accountant or by an accountant approved by the state department of education.

(6) Notwithstanding the provisions of any other subsection of this section to the contrary, for the 1966 tax year and for all subsequent years no district board of education shall [request the] levy *a tax at* [of] a rate under the provisions of this section which exceeds the compensating tax rate as defined in KRS 132.010, except as provided in subsection (7) of this section, and except that a rate which has been approved by the voters under this section but which was not levied by the district board of education in 1965 may be levied after it has been reduced to the compensating tax rate as defined in KRS 132.010, and except that in any school district where the rate levied in 1965 was less than the maximum rate which had been approved by the voters, the compensating tax rate shall be computed and may be levied as though the maximum approved rate had been levied in 1965 and the amount of revenue which would have been produced from such maximum levy had been derived therefrom.

(7) Notwithstanding the limitations contained in subsection (6) of this section no tax rate shall be set lower than that necessary to provide such funds as are required to meet principal and interest payments on outstanding bonded indebtedness and payments of rentals in connection with any outstanding school revenue bonds issued under the provisions of *KRS chapter 58 and* KRS chapter 162.

Section 6. KRS 160.500 is amended to read as follows:

(1) School taxes shall be collected by the *sheriff for county school districts and by the* regular tax collector [s] *of the city or special tax collector* for the *independent school districts* [tax-levying authorities that make the school levies for the various school districts,] at the same time and in the same manner as other local taxes are collected, except as provided in this section and in KRS 160.510. The bond of the regular *or special* tax collector shall be made to cover his duties as the tax collector of the school district or districts for which he collects taxes. The tax collector shall be entitled to a fee *equal to his expense but not to exceed* [at] the rate of four per cent (4%) for the collection of school taxes, which fee may be charged only for collecting or receiving school taxes or school funds received from the local school levy. No allowance shall be made for the collection of school taxes to any collecting officer who continues to collect taxes after his term that would not be allowed him had he collected the taxes during his term.

(2) An independent school district may select a special tax collector to collect its school taxes, and in the event such independent school district does so select a special tax collector, a majority of the members of the independent school district board of education shall fix a fee for such special tax collector at a rate of not [less than one per cent (1%) nor] more than four per cent (4%) of the school taxes or school funds collected by such special tax collector from the local school levy in such independent school district. The special tax collector shall be required to execute bond in the same manner as provided in KRS 160.560 for the execution of a treasurer's bond, and the penal sum of the bond shall not be less than the aggregate of the tax bills that come into the hands of the special tax collector.

(3) The clerk shall include all school taxes on the regular tax bills furnished the tax collector except in case an independent district has selected a special tax collector, in which case the school taxes shall be listed by the clerk on a separate bill. The clerk shall be allowed a fee not to exceed three cents (3c) for each separate school tax bill, to be paid by the independent district board of education.

Section 7. KRS 160.530 is amended to read as follows:

The money collected by taxation under the provisions of KRS 160.460 to 160.520 and other school money shall be expended by the board of education in accordance with the recommendations contained in the budget submitted to the *state board of education* [tax-levying authority].

Section 8. KRS 160.593 is amended to read as follows:

(1) Any board of education of a school district may, after compliance with the public hearing requirement contained in KRS 160.603, [request the fiscal court to] levy one (1) of the school taxes authorized by KRS 160.593 to 160.597, 160.601 to 160.633, 160.635 to 160.648. [The fiscal court shall levy, within fifteen (15) days of such request, the school tax at the rate requested and the levy shall take effect not less than thirty (30) days nor more than ninety (90) days after the passage of the order or resolution.] The imposition of

any tax levied under the provisions of KRS 160.593 to 160.597, 160.601 to 160.633, and 160.635 to 160.648 shall be limited to the territory of the school district *except as provided in subsection (2) of this section.* [or districts requesting the levy. In those counties where one (1) of the taxes referred to by this section is in effect county-wide on June 21, 1974, the taxes shall continue to be levied on a county-wide basis. Revenue produced by such taxes shall be distributed on the basis of average daily attendance, as set forth in KRS 160.644, to those districts levying such taxes.]

(2) Two or more boards of education *may agree in writing, which shall be approved by the state board of education, to levy identical school taxes authorized by KRS 160.605 to 160.611, 160,613 to 160.617, and 160.621 to 160.633. After the levying in each district so agreeing of a tax under the terms of such agreement, the receipts from said tax shall be held in a common fund and disbursed therefrom to each district on the basis of average daily attendance, as set forth in KRS 160.644. Any districts levying taxes under the terms of such an agreement shall be deemed to constitute a combined taxing district for the purposes of reference in KRS Chapter 160.* [within a county may make a joint request for the tax to be levied in their respective districts.]

Section 9. KRS 160.595 is amended to read as follows:

[The imposition of school taxes authorized by KRS 160.605 to 160.611, 160.613 to 160.617, 160.621 to 160.633 shall be by order or resolution of the fiscal court. No more than one such order or resolution shall be passed in any one calendar year, and no] *No* more than one school tax authorized by KRS 160.605 to 160.611, 160.613 to 160.617, 160.621 to 160.633 shall be in effect in any one district *or combined taxing district* at any one time.

Section 10. KRS 160.597 is amended to read as follows:

Any [order or resolution of a fiscal court levying a] school tax authorized by KRS 160.593 to 160.597, 160.601 to 160.633, 160.635 to 160.648 may be recalled as follows:

(1) The order or resolution [of the fiscal court] levying any of the school taxes designated heretofore in this section shall go into effect not less than thirty (30) days nor more than ninety (90) days after its passage. [by the fiscal court.] If during the thirty (30) days immediately following the passage of the order or resolution a petition signed by a number of registered and qualified voters equal to fifteen per cent (15%) of the votes cast in the school district *or combined taxing district levying* [requesting] the tax [levy] for the office receiving the greatest total vote at the last preceding presidential election is presented to the *school board* [fiscal court] protesting against passage of the order or resolution, the order or resolution shall be suspended from going into effect for that district until after the election provided for in subsection (2) of this section. [In the event that more than one (1) school district within a county has requested the tax, a separate petition meeting the requirements herein must be filed for each school district. The fifteen per cent (15%) requirement must be met in each respective participating school district.] Each sheet of the petition shall contain the names and addresses of voters in but one (1) voting precinct and each sheet shall state the name, number, or designation of the precinct and, where applicable, the name, number or designation of the district or ward wherein the precinct is situated. Each voter shall sign his name in the same manner as he signed the current registration form described in KRS 117.630 or subsection (2) of KRS 117.720, as the case may be. If the signature is difficult to read, the voter shall, on the same line legibly write or print his name in the same fashion as he signed it. One or more persons shall verify by affidavit the signatures and addresses of the signers of the petition. The board or boards of registration in the county shall provide necessary and appropriate aid to the *school board or boards* [fiscal court] so that the latter [body] may make the determination of whether the petition contains enough signatures of qualified voters to suspend the effect of the order or resolution.

(2) Thereupon, *if it has been determined that the petition contains enough valid signatures to suspend the effect of the order or resolution,* the *county board of elections* [fiscal court] shall submit to the voters of the school district in which a valid recall petition has been filed pursuant to subsection (1) of this section at the next regular November election the question as to whether the tax shall be levied. The question shall be so framed that the voter may by his vote answer, "for" or "against." If a majority of the votes cast in a district *or combined taxing district* upon the question oppose its passage, the order or resolution shall not go into effect in that district *or combined taxing district.* If a majority of the votes cast in a district *or combined taxing district* upon the question favor its passage, the order or resolution shall go into effect in that district. In the event that the election is to be held in more than one (1) school district within a county the votes shall be counted separately.

[(3) In the event that the order or resolution includes more than one (1) school district within a county and a valid recall petition has not been filed as required by this section against one (1) or more of these school districts, the levy may be made in that school district or districts without regard to any recall petition pending or voted thereon in another school district within the county.]

Section 11. KRS 160.603 is amended to read as follows:

No school district board of education shall [request the fiscal court to] levy any of the school taxes authorized by KRS 160.593 to 160.597, 160.601 to 160.633, 160.635 to 160.648 until after compliance with the following:

(1) The school district board of education desiring to *levy* [request the levying of] any one of these taxes shall give notice of any proposed [request for the] levy of one (1) of the school taxes. Notwithstanding any statutory provisions to the contrary, notice shall be given by causing to be published, at least one (1) time in a newspaper of general circulation published in the county or by posting at the courthouse door if there be no such newspaper, the fact that such *levy* [request] is being proposed. The advertisement shall state that the district board of education will meet at a place and on a day fixed in the advertisement, not earlier than one (1) week and not later than two (2) weeks from the date of the advertisement, for the purpose of hearing comments and complaints regarding the proposed increase and explaining the reasons for such proposal.

(2) The school district board of education shall conduct a public hearing at the place and on the date advertised for the purpose of hearing comments and complaints regarding the proposed *levy* [request] and explaining the reasons for such proposal.

(3) In the event *a combined taxing district* [that more than one school district within a county] desires to [request the] *levy* [levying] of any one of these taxes, the boards of education shall make a joint advertisement and hold a joint hearing in the manner prescribed heretofore for an individual school district.

Section 12. KRS 160.611 is amended to read as follows:

No occupational license tax for schools shall be collected from any individual who is not a resident of the *school district* [county of the fiscal court] imposing the school tax.

Section 13. KRS 160.617 is amended to read as follows:

[The fiscal court may promulgate such regulations as may be necessary for the collection of the tax authorized by KRS 160.613.] Notwithstanding the provisions of KRS 278.040 (2), any utility required to pay the tax authorized by KRS 160.613 may increase its rates in any county in which it is required to pay the school tax by three per cent (3%). Any utility so increasing its rates shall separately state on the bills sent to its customers the amount of such increase and shall identify such amount as: "Rate increase for school tax."

Section 14. KRS 160.625 is amended to read as follows:

The school tax authorized by KRS 160.621 shall be self-assessing. Each county resident paying state individual income taxes under KRS chapter 141 shall file, on or before July 1 of each year for calendar year taxpayers and six (6) months after the close of the tax year for all other taxpayers, with the *proper tax collector* [county finance officer] a return showing his state individual income tax liability and the amount of county school tax due. This school tax shall be remitted with the return and shall be delinquent six (6) months after the close of the individual's tax year. The *district board of education* [county finance officer] shall furnish the necessary tax returns for the administration of this school tax.

Section 15. KRS 160.627 is amended to read as follows:

The department of revenue shall make available to the *tax collector* [county finance officer], by October 1 of each year, such information as he may request concerning the state income tax liability of county residents. Such information shall be made available on a confidential basis as provided in KRS 131.190.

Section 16. KRS 160.635 is amended to read as follows:

School taxes imposed under the provisions of KRS 160.593 to 160.597, 160.601 to 160.633, 160.635 to 160.648 shall remain in full force and effect from year to year until the board of education *reduces* [has certified to the fiscal court a request for a reduction of] the rate in effect. [If a reduction in rate is requested, the fiscal court shall reduce the rate to the requested amount. The fiscal court may require the board of education to make an annual certification as to the need and necessity for the continuance of the current tax. In the event that more than one board of education within a county has one of these taxes in effect, each board of education desiring a tax rate reduction shall provide an individual certification of the tax rate reduction desired for that district.]

Section 17. KRS 160.637 is amended to read as follows:

Reasonable expenses incurred by any *tax collector* [fiscal court] for the administration or collection of the school taxes authorized by KRS 160.605 to 160.611, 160.613 to 160.617, 160.621 to 160.633 shall be reimbursed by the school district boards of education on a monthly basis or on such basis as may be agreed upon by the boards of education and the *tax collector* [fiscal court]. Such expenses shall be borne by the school districts on a basis proportionate to the revenue received by such districts.

Section 18. KRS 160.640 is amended to read as follows:

Any person having custody of the proceeds of any school tax authorized by KRS 160.605 to 160.611, 160.613 to 160.617, 160.621 to 160.633 shall be required to secure a corporate surety bond in an amount to be set by the *state board of education* [fiscal court]. The cost of the surety bond shall be considered a part of the cost of the administration of the school taxes authorized under KRS 160.605 to 160.611, 160.613 to 160.617, 160.621 to 160.633.

Section 19. KRS 160.648 is amended to read as follows:

(1) Any person, individual, or corporation required by the provisions of KRS 160.605 to 160.611, 160.613 to 160.617, 160.621 to 160.633 to file any return or report or furnish any information requested under the authority of KRS 160.605 to 160.611, 160.613 to 160.617, 160.621 to 160.633 who fails to file such return or report or furnish such information on or before the date required shall pay a penalty in the amount of ten dollars ($10.00) for each such failure.

(2) Any person, individual, or corporation who fails to pay, on or before the due date, any school tax authorized by KRS 160.605 to 160.611, 160.613 to 160.617, 160.621 to 160.633 and levied by the *district board of education* [fiscal court] shall pay a penalty of one per cent (1%) per month of the amount of such tax past due until paid.

Section 20. KRS 162.080 is amended to read as follows:

(1) Whenever a board of education deems it necessary for the proper accommodation of the schools of its district to enlarge sites for school buildings, to purchase new sites, which in the case of independent districts may be not more than two (2) miles without the boundary lines of the district, to improve, remodel or restore school buildings, to erect or equip new school buildings, or for any or all of these purposes, and the annual funds raised from other sources are not sufficient to accomplish the purpose, the board shall make a careful estimate of the amount of money required for the purpose and shall *determine* [certify to the proper tax-levying authority the fact that an election for an issue of bonds for school purposes shall be held together with] the amount of money for which bonds shall be issued and the purpose to which the proceeds shall be applied. *Upon request of the board of education of any district, the county board of elections shall submit* [The taxing authority shall then adopt an ordinance or resolution submitting] to the qualified voters of the district, the question as to whether bonds shall be issued for the purpose. The question shall be so framed that the voter may by his vote answer "for" or "against."

(2) The *request shall be accompanied by an* ordinance or resolution *which* shall fix the time the bonds shall run and, if a serial issue, the amount to mature at each time. It shall limit the rate of interest to be permitted on the bonds, which shall not exceed *the amount permitted by law* [six per cent (6%)], and the total amount of bonds to be issued, and shall provide for the levy of a tax to pay the interest and to create a sinking fund to retire them at their maturity.

(3) The election shall be held [at a time fixed in the ordinance or resolution,] not less than fifteen (15) nor more than thirty (30) days from the time the *request of the board of education is filed with the county board of elections* [certificate of the board is filed with the tax levying authority], and reasonable notice of the election shall be given. The election shall be conducted and carried out in the school district in all respects as required by the general election laws, and shall be held by the same officers as required by the general election laws. The expense of the election shall be borne by the *school district.* [fiscal court except where the election is held in a district embracing a city of the first five (5) classes, in which case the cost of the election shall be borne by the governing body of the city.]

Section 21. KRS 162.090 is amended to read as follows:

(1) If two-thirds (2/3) of those voting on the question vote in favor of the proposition, the bonds shall be issued. The bonds shall be designated "school improvement bonds." They shall be placed under the control of the board of education, and the board shall determine when, at what price and how the bonds shall be sold, the date, number of bonds, denomination, whether coupon or registered, the rate of interest, the frequency and place of payment of principal and interest, and other details as desired, embodied in the bonds or in the *request* [ordinance] providing for their issue. The board [shall certify the matters so determined to the tax-levying authority. The taxing authority] shall at once adopt *a resolution* [an ordinance] in conformity therewith [and cause the bonds to be at once properly prepared and executed and turned over to the board of education for sale and delivery]. The bonds shall be signed by the chairman and secretary of the board of education. [and shall not be sold for less than par and accrued interest.] As the bonds are sold, their proceeds shall be placed to the credit of the board of education in a depository designated by the board of education, and shall be kept in a separate account. The depository shall be required to execute proper bond covering the funds.

(2) The *board of education* [tax-levying authority] of the district shall, in addition to the levy made for the maintenance of schools, levy annually a tax sufficient to raise a sum for the payment of the interest and to create a sinking fund for the payment of the bonds at maturity. The bonds shall be a charge upon the school

district. [, except in independent districts embracing cities of the first and second classes, in which the bonds shall be a charge upon the sinking fund of the city and the city shall be entitled to have the annual sinking fund tax provided for in this section.]

Section 22. KRS 157.440 is amended to read as follows:

(1) In addition to the local tax effort required by KRS 157.380 *and 157A.100,* for participation in the equalization account of the public school foundation program fund, such districts or any other district may exceed the maximum provided by subsection (2) of KRS 160.470 provided that, upon request of the board *of education of the district, the county board of elections* [, the tax levying authority of the district] shall *submit* [adopt an ordinance or resolution submitting] to the qualified voters of the district, in the manner of submitting and voting as prescribed in paragraph (b) of subsection (1) of KRS 160.477, the question whether a rate which would produce revenues in excess of the maximum provided by subsection (2) of KRS 160.470 shall be levied. If a majority of those voting on the question favor the increased rate, the tax levying authority shall, when the next tax rate for the district is fixed, levy *a* [the] rate [requested by the board] not to exceed the rate authorized by the voters.

(2) For the 1966 tax year and for all subsequent years [the rate levied by the levying authority under the provisions of this section] for levies which were approved prior to December *8* [16], 1965, *no district board of education shall levy a tax at a rate under the provisions of this section which exceeds* [shall be] the compensating tax rate as defined in KRS 132.010, except as provided in subsection (3) of this section and except that a rate which has been approved by the voters under this section but which was not levied by the district board of education in 1965 may be levied after it has been reduced to the compensating tax rate as defined in KRS 132.010, and except that in any school district where the rate levied in 1965 was less than the maximum rate which had been approved by the voters, the compensating tax rate shall be computed and may be levied as though the maximum approved rate had been levied in 1965 and the amount of revenue which would have been produced from such maximum levy had been derived therefrom.

(3) Notwithstanding the limitations contained in subsection (2) of this section no tax rate shall be set lower than that necessary to provide such funds as are required to meet principal and interest payments on outstanding bonded indebtedness and payments of rentals in connection with any outstanding school revenue bonds issued under the provisions of KRS chapter 162.

(4) The superintendent of public instruction shall certify the compensating tax rate to the levying authorities.

Section 23. KRS 160.623 and 160.646 are repealed.

HB 249, AN ACT relating to sick leave for teachers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 161.155 is amended to read as follows:

(1) *As used in* [For the purpose of] this section*:* [,]

(a) "Teacher" ["teacher"] shall mean any person for whom certification is required as a basis of employment in the common schools of the state.

(b) "Immediate family" shall mean those persons related to the teacher or to the teacher's spouse by blood or marriage without reference to the location or residence of said relative.

(2) Each district board of education shall allow to each teacher in its common school system not less than ten (10) days ['] *of* sick leave during each school year, without deduction of salary. Sick leave shall be granted to a teacher if he presents a personal affidavit or a certificate of a physician stating that the teacher, or a member of his immediate family was ill on the day or days absent. The ten (10) days of sick leave herein granted may be taken by a teacher on any ten (10) days of the school year and shall be granted in addition to accumulated sick leave days that have been credited to the teacher under the provisions of subsection (3) of this section.

(3) Days of sick leave not taken by a teacher during any school year shall accumulate without limitation and be credited to that teacher. Accumulated sick leave may be taken in any school year. Any district board of education may, in its discretion, allow teachers in its common school system sick leave in excess of the number of days prescribed in this section.

(4) Accumulated days of sick leave shall be granted to a teacher, if prior to the opening day of the school year, an affidavit or a certificate of a physician is presented to the district board of education, stating that the teacher is unable to commence his duties on the opening day of the school year, but will be able to assume his duties within a period of time that the board determines to be reasonable.

The Committee Substitute for **HB 249** is as follows:

HB 249, AN ACT relating to sick leave for teachers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 161.155 is amended to read as follows:

(1) *As used in* [For the purpose of] this section*:* [,]

(a) "Teacher" ["teacher"] shall mean any person for whom certification is required as a basis of employment in the common schools of the state.

(b) "Immediate family" shall mean the teacher's spouse, children including stepchildren, parents and spouse's parents without reference to the location or residence of said relative.

(2) Each district board of education shall allow to each teacher in its common school system not less than ten (10) days ['] *of* sick leave during each school year, without deduction of salary. Sick leave shall be granted to a teacher if he presents a personal affidavit or a certificate of a physician stating that the teacher *was ill or that the teacher was absent for the purpose of attending to a member of his immediate family who was ill* [, or a member of his immediate family was ill on the day or days absent]. The ten (10) days of sick leave herein granted may be taken by a teacher on any ten (10) days of the school year and shall be granted in addition to accumulated sick leave days that have been credited to the teacher under the provisions of subsection (3) of this section.

(3) Days of sick leave not taken by a teacher during any school year shall accumulate without limitation and be credited to that teacher. Accumulated sick leave may be taken in any school year. Any district board of education may, in its discretion, allow teachers in its common school system sick leave in excess of the number of days prescribed in this section.

(4) Accumulated days of sick leave shall be granted to a teacher, if prior to the opening day of the school year, an affidavit or a certificate of a physician is presented to the district board of education, stating that the teacher is unable to commence his duties on the opening day of the school year, but will be able to assume his duties within a period of time that the board determines to be reasonable.

The Committee on Highways and Traffic Safety reported **HB 321** with Committee Amendment attached thereto, **HB 430, HJR 36** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 321, AN ACT relating to bureau of highways.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 176.051 is amended to read as follows:

(1) The bureau of highways may keep all state rights of way free of the species of grass, sorghum halepense, commonly known as Johnson grass, and the species of weed commonly known as giant foxtail, both of which are noxious weeds, *and the thistles cirsium arvense and carduus nutans, commonly known as Canada thistles and nodding thistles, respectively;* and, upon written request from any abutting property owner engaged in a program of eradication of Johnson grass, [or] giant foxtail, *Canada thistles or nodding thistles,* shall cooperate with such abutting owner by eradicating such Johnson grass, [or] giant foxtail, *Canada thistles or nodding thistles* from abutting state rights of way. The bureau may take steps to eradicate such grass, [or] weed *or thistles* by the use of chemicals or any other means found to be effective by the bureau.

(2) When the bureau undertakes to eradicate Johnson grass, [or] giant foxtail, *Canada thistles or nodding thistles* and the abutting property owner has not requested the bureau to aid in the eradication, the bureau of highways shall notify the owner or tenant, whichever may be operating the farm adjacent to the right of way, of the approximate date that the eradication work is to be performed. Notice shall be given to the owner or tenant so to provide at least three (3) days in which to allow the owner or tenant sufficient time to remove his livestock from the fields adjacent to the right of way on which the eradication work is to be performed. The bureau shall advise the owner or tenant of land adjacent to the right of way treated of the nature of any chemicals used and of the probable effect such chemicals or process used will have on any livestock. The bureau of highways shall further advise said owner or tenant of the length of time required for the chemical action or reaction to dissipate to the point where there will be no harmful effects on the livestock.

The Committee Amendment to **HB 321** is as follows:

Amend printed copy of **HB 321,** page 1, line 3, by deleting "(1)"

Page 1, by deleting lines 19 and 20 in their entirety

Page 2, by deleting lines 1 through 18 inclusive in their entirety

HB 430, AN ACT relating to traffic regulation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 189.391 is amended to read as follows:

(1) [(a)] Notwithstanding the provisions of KRS 189.390 or any other statutes the speed limit for all types of motor vehicles on any portion of any public highway of four or more traffic lanes, the opposing lanes of which are physically separated by means other than striping, shall be 55 miles per hour, unless the speed limits for all types of motor vehicles was less than 55 miles per hour on November 1, 1973.

(2) [(b)] The maximum speed limit on any public highway except those mentioned in [paragraph (a) of this] subsection *(1)* shall be 55 miles per hour. The Department of Transportation may set limits under this subsection less than 55 miles per hour after complying with the provisions of KRS 189.390(3) but in no event shall the limit exceed 55 miles per hour.

(3) [(c)] The legislative body of each city and the county court of any county shall limit the speed of any motor vehicle on any city street or county road to 55 miles per hour.

(4) [(d)] In the event that the Congress of the United States should raise or lower the speed limits as set out in [paragraphs (a), (b) and (c) of this] subsections *(1), (2) and (3),* the secretary of the Department of Transportation shall be empowered to alter the speed limits on the public highways of the Commonwealth of Kentucky to comply therewith.

[(2) KRS 189.391 and 189.392 shall cease to be in effect and stand repealed on and after the date on which the President declares that there is not a fuel shortage under the provisions of **HR 11372** or on June 30, 1976 whichever date occurs first. When KRS 189.391 and 189.392 cease to be in effect the provisions of KRS 189.390 or any other statute relating to speed limits on the public highways shall again become operative.]

HR 36, A JOINT RESOLUTION directing the Department of Transportation to designate highway US 68, from Maysville to its junction with state highways KY 32 and KY 36 near Carlisle, as "Henry Ward Highway."

WHEREAS, the Honorable Henry Ward served this Commonwealth as its Commissioner of Highways from September 1, 1960 to November 10, 1966; and

WHEREAS, during this tenure he brought about substantial rebuilding and reconstruction of highway US 68, between Maysville and its junction with state highways KY 32 and KY 36 near Carlisle, including construction of a new bridge over the Licking River at Blue Licks Battlefield State Park; and

WHEREAS, Henry Ward also has served his state as a member of the General Assembly and as Commissioner of Conservation and Commissioner of Parks and it is fitting and proper that his distinguished service be given proper recognition;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Department of Transportation is directed to designate highway US 68, between Maysville and its junction with state highways KY 32 and KY 36 near Carlisle, as "Henry Ward Highway."

Section 2. That the Department of Transportation erect five appropriate markers at intervals along this highway, placing one near the intersection with KY 32 and KY 36, one near the Blue Licks Battlefield State Park entrance, one near Mayslick, one near Washington, and one near the junction with state highway KY 10 at Maysville.

The Committee on State Government reported **HB 142, HB 359, HCR 42,** and **SCR 17** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 142, AN ACT relating to the Kentucky Employes Retirement System.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 61.595 is amended to read as follows:

(1) Upon retirement at normal retirement date, or subsequent thereto, a member may receive an annual retirement allowance, payable monthly during his lifetime, which shall consist of an amount equal to one and six-tenths per cent (1.6%) of final compensation multiplied by the number of years of service credit, except that:

(a) The annual normal retirement allowance for members of the General Assembly, who serve during the 1974 General Assembly, and will have eight (8) years or more of total legislative service as of December 31, 1975, shall not be less than $240 multiplied by the number of years of service as a member of the General Assembly;

(b) The annual normal retirement allowance for members of the General Assembly who will have fewer than eight (8) years of service as of December 31, 1975, shall be as prescribed in Chapter 116, Section 36(1), Acts of the 1972 General Assembly for legislative service prior to January 1, 1974.

(c) Former members of the General Assembly who have eight (8) or more years of legislative service prior to the 1976 Regular Session and have not applied for retirement benefits are eligible for an increased retirement allowance of $240 times years of legislative service, provided such member pays to the Kentucky Employes Retirement System thirty-five (35) percent of the actuarial cost of the higher benefit, as determined by the Board. The employer's share of sixty-five (65) percent of such computed actuarial cost shall be paid from the State Treasury to the Kentucky Employes Retirement System upon presentation of a properly documented claim to the Executive Department for Finance and Administration.

(d) [(c)] The annual normal retirement allowance for a member with ten (10) or more years of service, at least one (1) of which is current service, shall not be less than $512.

(2) Upon service retirement prior to normal retirement date, a member may receive an annual retirement allowance payable monthly during his lifetime which shall be determined in the same manner as for retirement at his normal retirement date with years of service and final compensation being determined as of the date of his actual retirement, but the amount of the retirement allowance so determined shall be reduced to reflect the earlier commencement of benefits except that there shall be no reduction in the retirement allowance of the member who has thirty (30) or more years of service credit at least fifteen (15) of which are current service.

(3) The retirement allowance shall be calculated by using the member's known creditable compensation prior to his last month's employment and an estimate of his creditable compensation during the last month he was employed. Based upon this calculation, the state treasurer shall be requested to issue the initial retirement check.

(4) A new calculation shall be made when the official report has been received of the member's creditable compensation during his last month's employment. However, the retirement allowance determined in accordance with subsection (3) of this section shall be the official retirement allowance unless the new calculation derives an amount which is twenty-five cents (25¢) greater or less than the amount of the initial retirement check.

HB 359, AN ACT relating to the state fair board.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 247.090 TO 247.210 IS CREATED TO READ AS FOLLOWS:

The state fair board shall not enter into a contract with the owner or operator of any exhibition, show, entertainment, or attraction which prohibits or restricts the owner or operator of any other similar exhibition, show, entertainment, or attraction from using the facilities of the state fair board, either preceding or following the dates specified in the contract.

HR 42, A CONCURRENT RESOLUTION requesting the Department of Transportation, the Department of Commerce, and the Department of Public Information to place the city of Guston, in Meade County, on the maps of Kentucky, and further requesting the Department of Public Information to inform all issuers of private maps to place Guston, in Meade County, on the maps of Kentucky issued by them.

WHEREAS, the city of Guston, in Meade County, contains a post office and several retail trade establishments; and

WHEREAS, the population of Guston is now in excess of two hundred fifty (250); and

WHEREAS, the city of Guston is the site of two churches which provide a place for worship for the residents of Guston and the surrounding community; and

WHEREAS, the city of Guston is a pleasant and friendly community, and a source of pride to its residents;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That the Department of Transportation, the Department of Commerce, and the Department of Public Information be and hereby are requested to place the city of Guston, in Meade County, on the maps of Kentucky issued by them.

Section 2. That the Department of Public Information be and is hereby requested to inform all issuers of private maps, such as gas and oil companies to place the city of Guston, in Meade County, on the maps of Kentucky issued by them.

SR 17, A CONCURRENT RESOLUTION requesting the Department of Transportation, the Department of Commerce and the Department of Public Information to place the city of Maple Mount, in Daviess County, on the maps of Kentucky, and further requesting the Department of Public Information to inform all issuers of private maps to place Maple Mount, in Daviess County, on the maps of Kentucky issued by them.

WHEREAS, the city of Maple Mount, in Daviess County, contains a third-class post office; and

WHEREAS, the population of Maple Mount is now in excess of six hundred; and

WHEREAS, the city of Maple Mount, in Daviess County, contains a secondary high school with approximately nineteen percent out-of-state students and several foreign students;

NOW, THEREFORE,

Be it resolved by the Senate of the General Assembly of the Commonwealth of Kentucky, the House of Representatives concurring therein:

Section 1. That the Department of Transportation, the Department of Commerce and the Department of Public Information be and are hereby requested to place the city of Maple Mount, in Daviess County, on the maps of Kentucky issued by them.

Section 2. That the Department of Public Information be and is hereby requested to inform all issuers of private maps, such as gas and oil companies to place the city of Maple Mount, in Daviess County, on the maps of Kentucky issued by them.

The Committee on State Government reported **HB 114** with Committee Amendment attached thereto, **HB 186** with Committee Substitute and Committee Amendment to the Committee Substitute attached thereto, **HB 193, HCR 5, HCR 6** and **HCR 23** with the expression of opinion that the same should pass. Ordered referred to the Committee on Rules.

The Committee Amendment to **HB 114** is as follows:

Amend printed copy of **HB 114,** page 1, lines 3 and 5, beginning with line 3, add: "(1)"; and, after line 5, add: "(2) For the purposes of this Act, unfair shall be construed to mean unconscionable."

The Committee Amendment to the Committee Substitute for **HB 186** is as follows:

Amend printed copy of Committee Substitute for **HB 186,** page 1, lines 14 and 15, by deleting the words "of four (4) years" and substituting in lieu thereof the words "to expire January 1, 1980"; and on

Page 1, lines 19 and 20 by deleting the words "of two (2) years" and substituting in lieu thereof the words "to expire January 1, 1978"; and on

Page 2, lines 7 and 8 by deleting the words "Kentucky Bar Association" and substituting in lieu thereof the words "Supreme Court"; and on

Page 2, line 14 by deleting the words "actual and"; and on

Page 2, line 17 by inserting after the word "designee" the words "and shall be paid out of the state treasury"; and after

Line 17 by adding the following words:

"Section 3. A new section of KRS Chapter 34 is created to read as follows:

The administrative office of the courts shall provide administrative support for, and maintain the records of, Judicial Nominating Commissions. The director of the administrative office of the courts shall certify the costs for these services to the Chief Justice who, upon verification, shall certify the expenses for payment out of the state treasury."; and on

Page 2, line 18 by deleting "3" and substituting in lieu thereof "4".

The Committee on Cities reported **HB 30** with Committee Substitute attached thereto, **HB 37** with Committee Substitute attached thereto, and **HB 451** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 30, AN ACT creating a department of housing, buildings and construction.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS Chapter 198B is established and a new section thereof is created to read as follows:
As used in this Act, unless otherwise provided:
(1) "Agricultural purposes" means farming, dairying, pasturage, apiculture, horticulture, floriculture, viticulture, and animal and poultry husbandry.
(2) "Assembly occupancy" means the occupancy or use of a building or structure or any portion thereof by a gathering of persons for civic, political, travel, religious, social, or recreational purposes; including among others:

(a) Armories;
(b) Assembly halls;
(c) Auditoriums;
(d) Bowling alleys;
(e) Broadcasting studios;
(f) Chapels;
(g) Churches;
(h) Clubrooms;
(i) Community buildings;
(j) Courthouses;
(k) Dance halls;
(l) Exhibition rooms;
(m) Gymnasiums;
(n) Hotels;
(o) Lecture rooms;
(p) Lodge rooms;
(q) Motels;
(r) Motion picture theaters;
(s) Museums;
(t) Night clubs;

(u) Opera houses;
(v) Passenger stations;
(w) Pool rooms;
(x) Recreation areas;
(y) Restaurants;
(z) Skating rinks;
(aa) Television studios;
(bb) Theaters.

(3) "Attic" means the space between the ceiling beams of the top habitable story and the roof rafters.

(4) "Basement" means that portion of a building the average height of which is at least half below grade, which is ordinarily used for purposes such as storage, laundry facilities, household tool shops, and installation and operation of heating, cooling and ventilating facilities, but which is not ordinarily used for purposes of general household habitation.

(5) "Building" means any combination of materials, whether portable or fixed, which comprises a structure affording facilities or shelter for any use or occupancy. The word "building" shall be construed wherever used herein as if followed by the words "or part or parts thereof and all equipment therein" unless the context clearly requires a different meaning. Building shall also mean swimming pools constructed below grade on site, but not swimming pools assembled above grade on site. Building shall not mean a "mobile home," or a "farm service building."

(6) "Business occupancy" means the occupancy or use of a building or structure or any portion thereof for the transaction of business, the rendering or receiving of professional services, or the displaying, selling or buying of goods, wares, or merchandise, or the housing of vehicles of transportation, except where occupancy is of high hazard; including among others:

(a) Banks;
(b) Barber shops;
(c) Beauty parlors;
(d) Department stores;
(e) Garages;
(f) Markets;
(g) Service stations;
(h) Offices;
(i) Stores;
(j) Radio stations;
(k) Telephone exchanges;
(l) Television stations.

(7) "Commissioner" means the commissioner of housing, buildings and construction.

(8) "Construction" means the erection, fabrication, reconstruction, alteration, repair or conversion of a building, or the installation of equipment therein.

(9) "Department" means the department of housing, buildings and construction.

(10) "Educational occupancy" means the occupancy or use of a building or structure or any portion thereof by persons assembled for the purpose of learning or of receiving education instruction; including among others:

(a) Academies;
(b) Care centers;
(c) Colleges;
(d) Kindergartens;
(e) Libraries;
(f) Pre-schools;
(g) Relocable classroom unit;
(h) Schools;
(i) Seminaries;
(j) Universities.

(11) "Equipment" means facilities or installations, including but not limited to, heating, electrical, ventilating, air conditioning, and refrigerating facilities or installations, and elevators, dumbwaiters, escalators, but does not mean boilers.

(12) "Farm service building" means any building or structure which is used for agricultural purposes on the land on which the buildings or structures are located and which is not used in the business of retail trade or used as a place of regular employment for ten (10) or more people.

(13) "High hazard occupancy" means the occupancy or use of a building or structure or any portion thereof that involves highly combustible, high flammable or explosive materials or which has inherent characteristics that constitute a special fire hazard; including among others:

(a) Aluminum powder factories;
(b) Charging or filling stations;
(c) Distilleries;
(d) Dry cleaning plants;
(e) Dry dyeing plants;
(f) Explosive-manufacture, sale or storage;
(g) Flour and feed mills;
(h) Gasoline bulk plants;
(i) Grain elevators;
(j) Lacquer factories;
(k) Liquefied petroleum gas;
(l) Mattress factories;
(m) Paint factories;
(n) Pyroxylin-factories, or warehouses;
(o) Rubber factories.

(14) "Industrial occupancy" means the occupancy or use of a building structure or any portion thereof for assembling, fabricating, finishing, manufacturing, packaging or processing operations, except for occupancies of high hazard; including among others:

(a) Assembly plants;
(b) Creameries;
(c) Electrical substations;
(d) Factories;
(e) Ice plants;
(f) Laboratories;
(g) Laundries;
(h) Manufacturing plants;
(i) Mills;
(j) Power plants;
(k) Processing plants;
(l) Pumping stations;
(m) Repair garages;
(n) Smokehouses;
(o) Workshops.

(15) "Industrialized building system" means any structure or component thereof which is wholly or in substantial part fabricated in an off-site manufacturing facility for installation or assembly on a permanent foundation at the building site.

(16) "Institutional occupancy" means the occupancy or use of a building or structure or any portion thereof by persons harbored or detained to receive medical, charitable or other care or treatment, or by persons involuntarily detained; including among others:

(a) Asylums;
(b) Homes for the aged;
(c) Hospitals;
(d) Houses of correction;
(e) Infirmaries;
(f) Jails;
(g) Nursing homes;
(h) Orphanages;
(i) Penal institutions;
(j) Reformatories;
(k) Sanitariums;
(l) Nurseries.

(17) "Mobile home" means mobile home as defined in KRS 227.550(1).

(18) "Story" means that part of a building comprised between a floor and the floor or roof next above which is not a basement or an attic.

Section 2. A new section of KRS Chapter 198B is created to read as follows:

(1) There is hereby created the Kentucky Board of Housing, Buildings and Construction within the Kentucky Department of Housing, Buildings and Construction comprised of thirteen members to include: one local government Fire Chief selected by the Governor from a list of three submitted by the Kentucky Firemen's Association; the Chairman of the Board of Directors of the Kentucky Housing Corporation; the Commissioner of the Bureau of Health Services, Department for Human Resources; one professional homebuilder selected by

the Governor from a list of three submitted by the Home Builders Association of Kentucky; one registered architect selected by the Governor from a list of three submitted by the Kentucky Society of Architects; one registered structural engineer selected by the Governor from a list of three submitted by the Kentucky Society of Professional Engineers; one registered mechanical engineer selected by the Governor from a list of three submitted by the Kentucky Society of Professional Engineers; one citizen member selected by the Governor to represent the interests of low and moderate income housing consumers within the Commonwealth of Kentucky; one practicing general contractor selected by the Governor from a list of three submitted by the Kentucky Association of General Contractors; one practicing code administrator selected by the Governor from a list of three submitted by the Codes Administrators Association of Kentucky; one realtor selected by the Governor from a list of three submitted by the Kentucky Association of Realtors; one member selected by the Governor from a list of three submitted by the Kentucky State Building Trades Council; and one master plumber selected by the Governor from a list of three submitted by the Kentucky Association of Plumbing, Heating and Cooling Contractors.

(2) Nominations to the Board shall be made to the Governor by June 30, 1976. The Governor shall make appointments to the Board by July 31, 1976.

(3) Except for the Commissioner of the Bureau of Health Services and the Chairman of the Board of Directors of the Kentucky Housing Corporation who shall serve on the Board during the term of their existing office and shall be voting members, Board members shall be appointed for four year terms, except that initially three shall be appointed for two year terms, three shall be appointed for three year terms, and five shall be appointed for four year terms. No Board member shall be appointed for more than one successive term except as provided in Section 2(4) of this Act. The Governor shall, within the limitations of this subsection, set the length of term of each of the initial appointees to the Board.

(4) Vacancies occurring on the Board among those members appointed by the Governor shall be filled by seeking nominations as in Section 2(1) of this Act from the organization which originally nominated the member who is to be replaced. A replacement for a Board member shall be appointed immediately upon the expiration of the departing Board member's term of service. Should a Board member vacate his position on the Board prior to the expiration of his term, his replacement shall be appointed for the period of the unexpired term. Should the unexpired term be less than two years, the person selected to fill the unexpired term may subsequently be appointed to one successive four year term.

(5) Members may be removed from the Board by the Governor for unethical conduct or for failure to attend three or more successive meetings of the Board without reasonable cause.

(6) The Board shall meet at least quarterly, and the first meeting shall occur no later than August 31, 1976. Before assuming their duties, members of the Board shall take an oath as specified in Section 228 of the Constitution of Kentucky.

(7) The Board may elect from its members such officers as are required to conduct its business, except that neither the Commissioner of the Bureau of Health Services nor the Chairman of the Board of Directors of the Kentucky Housing Corporation shall be elected to office on the Board.

(8) The Board may adopt such rules, regulations and by-laws as are necessary to conduct its internal business.

(9) No member of the Board may vote on any matter which will result in his direct or indirect financial gain.

(10) Those members of the Board who are not salaried governmental employes shall be compensated for their time when attending Board meetings or attending to official duties as directed by the Board at the rate of fifty dollars per day. All Board members shall be compensated for expenses incurred in the conduct of Board business.

Section 3. A new section of KRS Chapter 198B is created to read as follows:

(1) There is hereby created the Kentucky Department of Housing, Buildings and Construction within the cabinet for public protection and regulation. The Governor shall appoint a commissioner to head the department by July 31, 1976. The Commissioner shall receive for his services such compensation as the Governor shall determine. The Commissioner shall be selected by the Governor on the basis of demonstrated competence and experience in one or several professions relating to the housing and construction industry. Competence may be demonstrated by notable accomplishment in finance, engineering, architecture, law, land use planning, management and administration, construction contracting, real estate sales, real estate development or similar professions related to the responsibilities of the Commissioner as contained in this Act.

(2) The Commissioner may employ sufficient staff to carry out the functions of his office. Neither the Commissioner nor any member of his staff shall be employed, either directly or indirectly, in any aspect of the building industry as regulated by this Act while employed by the Department of Housing, Buildings and Construction.

(3) The Department shall serve as staff for the Board of Housing, Buildings and Construction as established by this Act, and shall perform all budgeting, procurement, and other administrative activities

necessary to the functioning of this body. The Board shall prescribe the duties of the Commissioner in addition to those duties otherwise delegated to him by the Governor or prescribed for him by law.

(4) The Department may enter into contracts with the Federal government, other agencies of state government or with its subdivisions, or with private profit or nonprofit organizations in order to effect the purposes of this Act.

(5) Subject to the direction of the Board of Housing, Buildings and Construction, the Commissioner shall cooperate with the agencies of the United States and with the governing bodies and housing authorities of counties, cities, and with not for profit organizations and area development districts in relation to matters set forth in this Act, and in any reasonable manner that may be necessary for the State to qualify for, and to receive grants or aid from such agencies. To these ends and subject to the direction of the Board, the Commissioner shall have the power to comply with each condition and execute such agreements as may be necessary, convenient, or desirable.

(6) Nothing in this Act shall preclude any other agency, board, or officer of the State from being designated as the directing or allocating agency, board, or officer for the distribution of Federal grants and aid, or the performance of other duties to the extent necessary to qualify for and to receive grants and aid for programs under the administration of the Department.

(7) The Commissioner is authorized to receive, for and on behalf of the State, the Department, and the Board of Housing, Buildings and Construction, from the United States and agencies thereof, and from any and all other sources, grants and aid and gifts made for the purpose of providing, or to assist in providing, any of the programs authorized by this Act, including expenses of administration. All such funds shall be paid into the State Treasury and credited to a trust and agency fund to be used by the Department in carrying out the provisions of this chapter. No part of this fund shall revert to the general fund of the Commonwealth.

Section 4. A new section of KRS Chapter 198B is created to read as follows:

The Kentucky Board of Housing, Buildings and Construction shall have the following general powers and duties:

(1) To conduct or cause to be conducted studies to determine the housing preferences of Kentucky citizens and the present and future housing requirements of the state;

(2) To devise and implement procedures for attaining and maintaining an accurate count of the housing inventory in Kentucky, including information on the age, physical condition, size, facilities, and amenities of such housing, and housing constructed and demolished each year;

(3) To conduct or cause to be conducted or participate in studies of the costs of the various factors of building production and use of buildings, and to recommend programs and procedures which will minimize the cost of housing and construction and use of buildings, including use of energy, while maintaining safety, durability and comfort;

(4) To design programs coordinating the elements of housing finance, production, maintenance and rehabilitation for the purpose of assuring the availability of safe, adequate housing in a healthful environment for all Kentucky citizens;

(5) To administer regulatory legislation relating to housing, buildings and construction;

(6) To establish or cause to be established public information and educational programs relating to housing, to include informing all Kentucky citizens about housing and housing related programs that are available on all levels of government;

(7) To design and administer or participate in the design and administration of educational programs to prepare low income families for home ownership and counsel them during their early years as home owners;

(8) To promote educational programs to assist sponsors in the development and management of low and moderate income housing for sale or rental;

(9) To assume administrative coordination of the various state construction review and housing programs and to cooperate with various federal, state and local agencies in their programs as they relate to housing;

(10) To recommend state housing policies and goals to the Kentucky General Assembly;

(11) To adopt and promulgate a mandatory uniform state building code which shall establish standards for the construction of all buildings in the state.

Section 5. A new section of KRS Chapter 198B is created to read as follows:

(1) Within one year from its initial meeting, after adequate notice in accordance with KRS Chapter 13, the Board shall adopt and promulgate a mandatory uniform state building code which shall establish standards for the construction of all buildings in the state. The code shall stipulate that all reviews and approvals of building plans for conformance with the uniform state building code prior to construction approval shall be conducted only by the Department or a local government delegated such responsibilities by this chapter, and any exceptions to this policy shall be explicitly stated in the code.

(2) The code shall be comprehensive and shall include but not be limited to provisions for general construction; structural quality; mechanical systems to include heating, cooling, and ventilation; electrical systems: and life safety from hazards of fire, explosion, and other disasters, whether caused by acts of nature or man. The code shall not apply to plumbing or to boilers.

(3) This code shall be designed after the models offered by such model code agencies as the Building Officials and Code Administrators, International, Inc.; The International Conference of Building Officials; the Southern Building Code Congress; and other nationally recognized organizations which may include governmental agencies. The code shall:

(a) provide uniform standards and requirements for construction and construction materials;

(b) to the extent practicable, set forth standards, specifications and requirements in terms of performance objectives, so as to facilitate the use of new technologies, techniques, and materials. The code shall not discriminate in favor of particular suppliers materials, techniques, or technologies;

(c) protect the public health, safety, and welfare within the state.

(4) Adoption of a code shall include provisions for the annual review of, and the Board shall adopt when deemed justified to fulfill the purposes of this Act, new materials, technologies, and techniques in the building industry. The Board may adopt a model code promulgated by a model code agency only if that agency provides for democratic participation by the Board and any local governments which may enforce the code, in an annual review and possible adoption of new materials, technologies, and techniques in the building industry.

(5) The Board shall issue regulations, after notice in accordance with KRS Chapter 13, which are necessary to implement the uniform state building code or to carry out any other responsibility assigned to said Board by this Act.

(6) The Board shall provide for monitoring the effectiveness of agencies designated by local governments to enforce the provisions of the uniform state building code.

(7) The Board shall provide for the printing and supply, including amendments and revisions thereto, of sufficient copies of the uniform state building code for all interested parties.

Section 6. A new section of KRS Chapter 198B is created to read as follows:

(1) Each local government in the state of Kentucky shall employ a building official or inspector and other code enforcement personnel as required, to enforce the uniform state building code within the boundaries of its jurisdiction, and shall neither adopt nor enforce any other ordinance regulating buildings which conflicts with the uniform state building code, except that a building code adopted by a local government prior to passage of this Act may continue in effect until such time as the uniform state building code becomes mandatory within that local government jurisdiction.

(2) Local governments shall be responsible for the examination and approval or disapproval of plans and specifications for buildings of no more than three stories in height, exclusive of attic and basement, which do not contain more than 20,000 square feet of floor area, and are not intended for assembly, educational, institutional or high hazard occupancy, business or industrial occupancy in excess of 100 persons, or for use as a frozen food locker plant as defined in KRS 221.010. Local governments shall be responsible for the issuance and revocation of building permits, licenses, certificates and similar documents which cover activities within their area of responsibility, and the inspection of all buildings pursuant to the provisions of this Act and the uniform state building code. Each local government issuing a building or demolition permit or an initial certificate of occupancy on a new structure shall send a copy of such permit or certificate to the commissioner of housing and construction for his use in maintaining an accurate housing inventory for Kentucky.

(3) The department shall be responsible for the examination and approval or disapproval of plans and specifications for all buildings which are not the responsibility of local governments. The department may issue and revoke permits, licenses, certificates and similar documents within its area of responsibility, and shall have concurrent jurisdiction with local governments for the inspection of all buildings pursuant to the provisions of this chapter and the uniform state building code. The department may preempt any portion of a local program if the commissioner determines that the local jurisdiction is not adequately performing that portion of the program. If the department preempts any portion of a local program, it shall collect the fees applicable to that portion of the program.

(4) Any local government may petition the commissioner requesting that additional plan review functions be allocated to that local government. Such petition shall include evidence of the local government's capability to perform additional plan review functions. The commissioner, after review of the petition and supporting evidence, may grant or deny to the local government any part of a request for additional responsibility. If the commissioner denies any part of a petition, he shall explain his reasons for denial in writing, and provide a copy to the board and the local government. A local government may appeal such denial directly to the board, and the board shall review such appeal according to the procedures found in Sections 7(8) through 7(12) of this Act. Should the local government be granted additional responsibility by the commissioner or the board, the department shall hold concurrent jurisdiction over such additional responsibility, but the local government shall collect any fees for functions it performs pursuant to such additional responsibility.

(5) The commissioner shall expedite the review of plans and specifications by assigning responsibilities and coordinating review activities among the department's various functional offices so as to prevent unnecessary duplication in the review of plans and specifications.

(6) No building shall be constructed in this state until a local building official with appropriate jurisdiction over said building, or an official representing the department, issues a permit for such construction. The local building official or the representative of the department shall issue a permit if the plans and specifications for the building satisfy the requirements of the uniform state building code and if the party desiring to construct the building has complied with all other legal requirements concerning the location and construction of said building. The applicant for a building permit, by the act of applying for the permit, is deemed to have consented to inspection, by the local government or the department, of such building during construction and upon the completion of construction for the purpose of determining that such building is constructed in compliance with the uniform state building code. This section shall apply to industrialized building systems but destructive disassembly of industrialized building systems which carry a seal of approval pursuant to a manufactured building law in the state in which they were manufactured, which seal of approval is accepted by the Board of Housing, Buildings, and Construction, shall not be performed in order to conduct such tests or inspections.

(7) No building on which construction was begun nor any industrialized building system on which site preparation and assembly were begun after the uniform state building code became effective shall be occupied until the local building official or a representative of the department issues a certificate of occupancy certifying that the building was constructed in conformance with the standards of the uniform state building code, or assembled or installed in conformance with applicable instructions.

(8) A local government may contract with other local governments, and may seek the technical assistance of an Area Development District in order to provide for the local enforcement of the uniform state building code. Such contracts among local governments shall conform to the provisions of KRS Chapter 65.

(9) Each local government and the department may establish a schedule of fees for the functions performed under the provisions of this Act. Such fees shall be designed to fully cover the cost of the service performed but shall in no case exceed the cost of the service performed. Fees payable to the department shall be paid into the state treasury and credited to a trust and agency fund to be used by the department in carrying out the provisions of this chapter. No part of this fund shall revert to the general fund of the Commonwealth.

Section 7. A new section of KRS Chapter 198B is created to read as follows:

(1) The Mayor, Chairman of the Board of Trustees, or County Judge of a local government which is enforcing the uniform state building code may, upon the approval of the local legislative body, appoint a local appeals board, consisting of at least three technically qualified persons with professional experience related to the building industry, to hear appeals from the decisions of the local building official.

(2) Local governments which are enforcing the uniform state building code may cooperate with each other to provide a local appeals board and shall adhere to the provisions of KRS Chapter 65 when entering such cooperative agreements. No local building official or employe of a local inspection department may sit on a local appeals board if such board is hearing an appeal to a decision rendered by his department. No member of a local appeals board shall hear an appeal in a case in which he has a private interest.

(3) Any party to a decision by the local building official may appeal that decision to the local appeals board. Upon receipt of an appeal from a qualified party, the local appeals board shall convene a hearing to consider the appeal within twenty days of receipt. All parties to the appeal shall be notified of the time and place of the hearing by letter mailed by registered or certified mail no later than ten days prior to the date of the hearing. The local appeals board shall render a decision within ten days after the hearing.

(4) A local appeals board may uphold, amend, or reverse the decision of a local building official, and there shall be no appeal from the decision of a local appeals board except that any party to such decision may appeal to the Board of Housing, Buildings and Construction. Appeals to the Board of Housing, Buildings and Construction shall include citations of those provisions of the uniform state building code which are at issue, and an explanation of why the decision of the local appeals board or the local building official relative to those provisions is being contested.

(5) The Board of Housing, Buildings and Construction shall serve to hear appeals from the decisions of local appeals boards, when such boards exist, or to hear appeals directly from the decisions of local building officials in cases where no local appeals board has jurisdiction. In no case shall the Board hear an appeal directly from a party aggrieved by the decision of a local building official when there is a local appeals board with jurisdiction in the case.

(6) The board shall hear appeals directly from a party aggrieved by the decision of an agent of the department. Such appeals shall include citations of those provisions of the uniform state building code which are at issue, and an explanation of why the decision of the agent of the department relative to those provisions is being contested.

(7) Appeals to the Board of Housing, Buildings and Construction shall be addressed to the Commissioner who shall immediately notify the Chairman of the Board when an appeal is received. The Commissioner or a designated employe of his department shall then investigate the evidence pertaining to such appeal and, based upon the results of such investigation, make recommendations to the Board on the disposition of the case in question. No employe of the department shall investigate or make recommendations on an appeal to his own decision, but shall defer in such cases to employes who were not party to the decision which led to the appeal. In conducting such investigation, the Commissioner or his designated representatives, acting for the department, shall have the authority to administer oaths and affirmations, issue subpoenas authorized by law, rule upon offers of proof and receive relevant evidence, take or cause depositions to be taken, regulate the course of any hearings they may schedule, and hold conferences for the settlement or simplification of the issues by consent of the parties. The Commissioner shall complete such investigations and forward written recommendations to the Chairman of the Board within forty-five days after receiving an appeal.

(8) Upon receiving the written recommendations of the Commissioner, the Board may decide to accept such recommendations, or it may decide to convene a hearing to consider the question further. Upon receipt of the recommendations of the Commissioner, the Board shall render a decision on each appeal at its next regularly scheduled meeting, but no later than thirty days after receipt of such recommendations.

(9) Should the Board's decision be to schedule a hearing on the appeal, such hearing shall occur within thirty days of such decision, and all parties to such hearing shall be immediately notified in writing of the time and place of such hearing by the Commissioner.

(10) The Board may appoint five or more of its members to consider the recommendations of the Commissioner or to conduct the hearing, and those so appointed shall act in all matters concerning the appeal for the entire Board.

(11) In considering an appeal, the Board, if they deem it necessary to reach an equitable decision, may exercise any of the powers granted to the Commissioner in Section 7(7) of this Act. The Board shall render a decision within ten days of any appeals hearing it may conduct.

(12) The Board may uphold, amend, or reverse the decision of a local appeals board, a local building official or an agent of the department; and the decision of the Board shall be final, and there shall be no appeal from the Board's decision, except to the Franklin Circuit Court, and thereafter to the Court of Appeals.

Section 8. A new section of KRS Chapter 198B is created to read as follows:

(1) Any interested party may suggest amendments to the uniform state building code to the Department of Housing, Buildings and Construction. The department shall transmit all suggested amendments to the Board with recommendations on the advisability of the suggested amendments.

(2) The Board may amend the uniform state building code at any time, but only after notice in accordance with KRS Chapter 13. Such amendments shall be effective statewide.

(3) No amendment shall violate the performance orientation of the code, favor certain materials or suppliers, or weaken the life safety features of the uniform state building code as specified in Section 5(3) of this Act.

Section 9. A new section of KRS Chapter 198B is created to read as follows:

(1) The department may conduct or sponsor pre-entry and in-service education and training programs on the technical, legal, and administrative aspects of building code administration and enforcement. For this purpose it may cooperate and contract with educational institutions, area development districts, local, regional, state or national building officials' organizations, and any other appropriate organization.

(2) The department may reimburse building officials, code enforcement officers and other employes of the state and its subdivisions for related expenses incurred by them for attendance at in-service training programs approved by the department.

Section 10. A new section of KRS Chapter 198B is created to read as follows:

Unless explicitly stated, exemption of mobile homes from the provisions of this Act is not intended to exempt them from provisions of existing law regulating them for the purposes of health, safety and welfare.

Section 11. A new section of KRS Chapter 198B is created to read as follows:

(1) In all local governments in a county containing a city of the first or second class, and in urban county governments, the uniform state building code shall become effective six months after promulgation by the Board. Any of said local governments may adopt the code prior to that time.

(2) In all local governments in a county containing a city of the third or fourth class, but not a city of the first or second class, the uniform state building code, as it pertains to buildings for which the department has the responsibility for plan reviews, shall become effective six months after promulgation by the Board and

as it pertains to buildings for which local governments have responsibility for plan review shall become effective two years after promulgation by the Board. Any of said local governments may adopt the code prior to such times.

(3) In all local governments in a county containing a city of the fifth or sixth class, but not a city of the first through fourth classes, the uniform state building code as it pertains to buildings for which the department has the responsibility for plan reviews shall become effective six months after promulgation by the Board and as it pertains to buildings for which local governments have responsibility for plan review shall become effective three years after promulgation by the Board. Any of said governments may adopt the code prior to such times.

(4) A building for which a permit was legally granted prior to the effective date of the uniform state building code may be constructed and occupied under the provisions of relevant regulations in force at the time the permit was issued.

(5) A building for which plans were prepared at least three months prior to the effective date of the uniform state building code and upon which construction was begun prior to the effective date of the uniform state building code in a locality not then requiring a building permit may be completed and occupied without a building permit.

Section 12. A new section of KRS Chapter 198B is created to read as follows:

The Department or any local government agency enforcing the uniform state building code may obtain injunctive relief from any court of competent jurisdiction to enjoin the offering for sale, delivery, use, occupancy, erection, alteration, or installation of any building covered by this Act, upon an affidavit of the department or the local government agency specifying the manner in which the building does not conform to the requirements of this Act or the uniform state building code.

Section 13. A new section of KRS Chapter 198B is created to read as follows:

(1) Notwithstanding any other remedies available, any person or party, in an individual capacity or on behalf of a class of persons or parties, damaged as a result of a violation of this Act or the uniform state building code, has a cause of action in any court of competent jurisdiction against the person or party who committed the violation. An award may include damages and the cost of litigation, including reasonable attorney's fees.

Section 14. A new section of KRS Chapter 198B is created to read as follows:

(1) No person shall refuse to admit an inspector enforcing any of the provisions of this Act to his premises or any portion thereof.

(2) No person shall hinder an inspector enforcing any of the provisions of this Act in the performance of his lawful duties under this Act.

Section 15. KRS 12.020 is amended to read as follows:

Departments, Program Cabinets (and their Departments) and the respective major administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-inclusive. Every authority, board, bureau, interstate compact, commission, committee, conference, council, office or any other form of organization shall be included in or attached to the department or program cabinet in which they are included or to which they are attached by statute or executive order.

I. Departments headed by elected officers.
1. The Governor.
2. Lieutenant Governor.
3. Department of State.
(a) Board of Elections.
4. Department of Law.
(a) Consumers Advisory Council.
5. Department of the Treasury.
6. Department of Agriculture.
(a) State Board of Agriculture.
(b) Milk Marketing and Antimonopoly Commission.
7. Department of Education.
(a) State Board of Education.
(b) State Textbook Commission.
8. Auditor of Public Accounts.
9. Railroad Commission.
II. Cabinet Departments headed by appointed officers:

1. Executive Department for Finance and Administration.
(a) State Property and Buildings Commission.
(b) Turnpike Authority of Kentucky.
(c) Capitol Plaza Authority.
[(d) Kentucky Housing Corporation.]
(d) [(e)] Kentucky Pollution Abatement Authority.
(e) [(f)] Kentucky Health and Geriatric Authority.
(f) [(g)] Kentucky Savings Bond Authority.
(g) [(h)] County Debt Commission.
2. Department of Transportation.
(a) Railroad Commission.
(b) Motor Vehicle Dealers Board.
3. Department for Natural Resources and Environmental Protection.
(a) Environmental Quality Commission.
(b) Soil and Water Conservation Commission.
(c) Ohio River Sanitation Commission.
4. Department of Justice.
(a) Kentucky Crime Commission.
(b) Parole Board.
(c) Kentucky Law Enforcement Council.
(d) Judicial Training Council.
(e) Commission on Corrections and Community Service.
(f) State Police Personnel Board.
5. Department for Human Resources.
(a) Citizens Commission for Human Resources.
(b) Advisory Council for Medical Assistance.
(c) Unemployment Insurance Commission.
(d) Certificate of Need and Licensure Board.
(e) Generic Formulary Council.
Cabinet for Development.
Department of Agriculture (headed by elected officer).
6. Department of Commerce.
(a) Economic Development Commission.
(b) Kentucky Industrial Development Finance Authority.
(c) Kentucky Science and Technology Commission.
7. Department of Fish and Wildlife Resources.
(a) Fish and Wildlife Resources Commission.
8. Department of Parks.
(a) Breaks Interstate Park Commission.
9. Kentucky Historical Events Celebration Commission.
10. State Fair Board.
11. Kentucky Geological Survey.
Cabinet for Education and the Arts.
12. Kentucky Arts Commission
Department of Education (headed by elected officer).
13. Kentucky Authority for Educational Television.
14. Kentucky Heritage Commission.
15. Kentucky Historical Society.
16. Department of Library and Archives.
(a) State Archives and Records Commission.
(b) State Board for Certification of Librarians.
17. Advisory Council for Vocational Education and Manpower Development and Training.
Cabinet for Public Protection and Regulation.
18. Department for Alcoholic Beverage Control.
(a) Alcoholic Beverage Control Board.
19. Department of Banking and Securities.
20. Department of Insurance.
(a) Custodian of Insurance Securities.
21. Department of Labor.
(a) Workmen's Compensation Board.

(b) Board of Claims.
(c) Occupational Safety and Health Standards Board.
22. Department of Mines and Minerals.
23. Kentucky Registry of Election Finance.
24. Public Service Commission.
25. Kentucky Quarterhorse and Appaloosa Commission.
26. Kentucky State Racing Commission.
27. Kentucky Trotting Commission.
28. Kentucky Board of Tax Appeals.
29. Department of Housing, Buildings and Constructions.
(a) Kentucky Housing Corporation.
III. Other Departments headed by appointed officers:
1. Department of Military Affairs.
2. Department of Personnel.
(a) Personnel Board.
3. Department of Public Information.
4. Department of Revenue.
5. Human Rights Commission.
6. Council on Public Higher Education.
7. Teachers' Retirement System.
8. Kentucky Employees' Retirement System.
9. Commission on Women.
10. Kentucky Tobacco Research Board.

Section 16. KRS 156.160 is amended to read as follows:

Upon recommendation of the superintendent of public instruction, the state board of education shall adopt rules and regulations relating to:

(1) The biennial state school budget;

(2) Minimum courses of study for the different grades and kinds of common schools, and regulations governing educational equipment of the schools;

(3) Grading, classifying and accrediting all common schools, and for determining the scope of instruction that may be offered in the different classes of schools, and the minimum requirements for graduation from the courses offered;

(4) Taking, and keeping a school census, and the forms and blanks to be used in taking and keeping the census and in compiling the required reports;

(5) Sanitary and protective construction of public school buildings, toilets, physical equipment of school grounds, school buildings and classrooms. *With respect to physical standards of construction for school buildings, the state board shall adopt the uniform state building code*;

(6) Medical inspection, physical education and recreation, and other rules and regulations deemed necessary or advisable for the protection of the physical welfare and safety of the public school children;

(7) The transportation of children to and from school;

(8) Approval of private and parochial schools of elementary or high school grade, and commercial schools;

(9) The fixing of holidays on which schools may be closed and special days to be observed, and the pay of teachers during absence because of sickness or quarantine or when the schools are closed because of quarantine;

(10) The preparation of budgets and salary schedules for the several school districts under the management and control of the state board of education;

(11) A uniform series of forms and blanks, educational and financial, including forms of contracts, for use in the several school districts;

(12) The disposal of real and personal property owned by local boards of education.

Section 17. KRS 162.060 is amended to read as follows:

The superintendent of public instruction shall be furnished a copy of all plans and specifications for new public school buildings contemplated by boards of education and for all additions to or alterations of old buildings. He shall examine or cause to be examined all such plans and specifications and shall approve or disapprove them in accordance with the rules and regulations of the state board of education. *Plan reviews for conformance with the uniform state building code shall be conducted only by the department of housing, buildings and construction, and the superintendent shall forward plans to said department for this purpose.* No board of education may award a contract for the erection of a new building or contract for an addition to or alteration of an old building until the plan has been approved by the superintendent of public instruction.

Section 18. KRS 211.180 is amended to read as follows:

The department shall enforce the rules and regulations adopted by the secretary for human resources for the regulation and control of the matters set out below and shall formulate, promote, establish and execute policies, plans and programs relating to all matters of public health, including but not limited to the following matters:

(1) Detection, prevention, and control of communicable diseases, chronic and degenerative diseases, dental diseases and abnormalities, occupational diseases and health hazards peculiar to industry, home accidents and health hazards, animal diseases which are transmissible to man, and such other diseases and health hazards as may be controlled;

(2) The control of insects, rodents and other vectors of disease; the proper disposal of garbage, waste and other refuse; [the safe installation and operation of plumbing and plumbing fixtures;] the safe handling of food and food products; the safety of cosmetics; the control of narcotics, barbiturates and other drugs as provided by law; the purification of water for public and semipublic use; the proper [construction and] operation of public water purification plants and distribution systems, swimming pools; the sanitation of schools, industrial establishments and other public and semipublic buildings; the sanitation of state and county fairs and other similar public gatherings; the sanitation of public and semipublic recreational areas; the sanitation of public rest rooms, trailer courts, hotels, tourist courts, and other establishments furnishing public sleeping accommodations; [the review, approval or disapproval of plans for construction, modification or extension of food-handling establishments, water purification and distribution systems, swimming pools, and such other establishments, systems, plants and places as are designated by the secretary for human resources;] the licensure of hospitals; and the control of such other factors as may be necessary to insure a safe and sanitary environment;

(3) Protection and improvement of the health of expectant mothers, infants, preschool and school age children;

(4) The practice of midwifery, including the issuance of permits to and supervision of women who practice midwifery;

(5) Protection and improvement of the health of the people through better nutrition.

Section 19. KRS 216.425 is amended to read as follows:

(1) There is hereby created the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board consisting of sixteen members, to be appointed by the governor, for the purpose of carrying out KRS 216.405 to 216.485. The board shall be appointed as follows: two members from the Kentucky Hospital Association, two members from the Kentucky Medical Association, two members from the Kentucky Nursing Home Association, one member from the Kentucky Nurses Association, one member from the Kentucky Dental Association, one member from the Kentucky Pharmaceutical Association, and four members who are consumers with an interest in education, rehabilitation, mental health, home care programs, or ambulatory care services and three members who are consumers not associated with any health facilities or delivery of health services. The aforesaid associations shall nominate three persons for each appointment to be made. The comprehensive health planning council shall nominate three persons for each of the consumer positions. The governor shall appoint a chairman from the consumer members of the board. Members of the board shall serve for a term of four years, except that the first appointments shall be made as follows: three for a term of one year; four, a term of two years; four, a term of three years; and four, a term of four years. In event of a vacancy the person appointed shall serve only for the remaining portion of the vacated term. All members shall serve until such time as their successors are qualified and appointed. The secretary for human resources shall serve in an advisory capacity to the board.

(2) Board members shall be reimbursed for allowable expenses for each day spent in active board duty.

(3) The board shall have authority to promulgate administrative regulations, to be filed with the Legislative Research Commission as provided in KRS chapter 13 and do any other acts necessary to administer KRS 216.405 to 216.485.

(4) The board shall have three separate and distinct functions:

(a) To issue certificates of need in accordance with the provisions of KRS 216.405 to 216.485.

(b) To issue licenses, regulate and inspect health facilities and health services. *Any construction standards which may be promulgated by regulations shall conform to the uniform state building code, and plan reviews for conformance with such code prior to construction shall be conducted only by the department of housing, buildings and construction. These provisions shall not limit the board from conducting other necessary reviews prior to approval for construction.*

(c) To enforce, through legal actions on its own motion, the provisions of such certificates, licenses and regulations.

(5) The board shall develop, establish, enforce and may repeal standards, rules and regulations for the care, health, safety, welfare, and comfort of patients in health facilities and health services covered by KRS

216.405 to 216.485 and for the maintenance and operation of health facilities and health services which shall be designed to insure that the quality of care offered by the facility or service is satisfactory and that the facility or service receives a license appropriate to its function. This shall include but not be limited to the classification and categorization of health facilities and health services according to character, size, range of services provided, type and level of care required. Further, the board shall develop and enforce standards relative to each classification or category of health facilities and health services which must be met in order to receive a license to operate and maintain health facilities and health services.

(6) The board shall adopt, establish and enforce criteria and procedures as developed by the state health planning council for determining the need for construction, expansion or implementation of health facilities and services.

(7) Members of the board, or its representatives, are hereby authorized to enter upon the premises of any health facility or health service as covered by KRS 216.405 to 216.485, for the purpose of inspection, at any reasonable time.

(8) The composition of the board and the rules and regulations thereof shall conform to any federal law or regulations pertaining to the licensing of health facilities.

(9) The board may appoint such technical advisory committees as are deemed necessary to administer the provisions of KRS 216.405 to 216.485.

(10) The board may, by regulation, prescribe and collect reasonable fees and charges for processing applications for certificate of need and licensure. All fees and charges collected under the provisions of KRS 216.405 to 216.485 shall be paid to the state treasurer and credited to a trust and agency account to be used in the administration of KRS 216.405 to 216.485.

(11) The board shall coordinate the requirements of all other state agencies which may have regulatory power over health facilities and health services covered by KRS 216.405 to 216.485 in such manner that the applicant is assured of having met the requirements of the other agencies when issued a license by this board.

Section 20. KRS 219.041 is amended to read as follows:

(1) The secretary shall adopt rules and regulations for the effective administration and enforcement of KRS 219.011 to 219.081.

(2) The secretary shall adopt a state food service code which shall include, among other things, provisions for regulating the issuance, suspension, and revocation of permits to operate; submission of plans for construction and equipment layout including plumbing, lighting, ventilation, water supply, sewage disposal and other facilities; food supply source and protection; health, disease control and cleanliness of personnel; design, construction, installation and cleanliness of equipment and utensils; toilet and hand washing facilities; solid waste disposal and vermin control; and such other matters deemed necessary to insure a safe and sanitary operation of a food service establishment. *Standards for the construction and equipment layout, plumbing, lighting, ventilation, water supply and sewage disposal of fixed food service establishments shall be effective only if they are approved by the board of housing, buildings and construction and are included in the uniform state building code, or if they conform to the state plumbing code in the case of plumbing fixtures water supply and sewage disposal. Any review of plans for construction and equipment layout, plumbing, lighting, ventilation, water supply and sewage disposal required before construction of a fixed food service establishment shall be conducted by the department of housing, buildings and construction.*

(3) The secretary shall adopt a state hotel code which shall include, among other things, requirements for the issuance, suspension and revocation of permits to operate; submission of plans for construction and equipment layout; plumbing; lighting; ventilation; water supply; sewage disposal; sanitary standards for operation; and such other matters deemed necessary to insure a safe and sanitary operation of a hotel. *Standards for construction and equipment layout, plumbing, lighting, ventilation, water supply and sewage disposal shall be effective only if they are approved by the board of housing, buildings and construction and are included in the uniform state building code, or if they conform to the state plumbing code in the case of plumbing fixtures, water supply and sewage disposal. Any review of plans for construction and equipment layout, plumbing, lighting, ventilation, water supply and sewage disposal required before construction of a hotel shall be conducted by the department of housing, buildings and construction.*

Section 21. KRS 219.051 is amended to read as follows:

The state fire marshal or his duly authorized agents or representatives shall administer and enforce all state fire regulations, laws, standards of safety and rules and regulations adopted by the *commissioner of housing, buildings and construction* [secretary of justice] relating to hotels and food service establishments.

Section 22. KRS 221.030 is amended to read as follows:

(1) The department, through its secretary or his authorized agents, shall have the authority of supervising and enforcing the provisions of KRS 221.010 to 221.100.

(2) The secretary may prescribe and enforce such rules and regulations and to make such definitions, and prescribe such procedure with regard to hearings, as he may deem necessary to carry into effect the full intent and meaning of KRS 221.010 to 221.100. *Construction standards for frozen food locker plants shall be effective only if approved by the board of housing, buildings and construction and included in the uniform state building code. Any construction plan reviews required prior to approval for construction shall be conducted by the department of housing, buildings and construction.*

(3) In any proceeding under KRS 221.010 to 221.100 the secretary may administer oaths and issue subpoenas, summon witnesses and take testimony of any person within the commonwealth of Kentucky.

Section 23. KRS 221.070 is amended to read as follows:

The secretary shall cause to be made periodically a thorough inspection of each establishment licensed under KRS 221.010 to 221.100 to determine whether or not the premises are [constructed,] equipped and operated in accordance with the requirements of KRS 221.010 to 221.100 and of all other laws of this state applicable to the operation either of refrigerated lockers or of the handling of human food in connection therewith, and of all regulations effective under KRS 221.010 to 221.100 relative to such operation. Such inspection shall also be made of each vehicle used by the operator of refrigerated lockers or of an establishment, handling human food in connection therewith, when such vehicle is used in transporting or distributing human food products to or from refrigerated lockers within this state.

Section 24. KRS 224.033 is amended to read as follows:

In addition to any other powers and duties vested in it by law, the department shall have the authority, power, and duty to:

(1) Exercise general supervision of the administration and enforcement of Acts 1972 (1st Ex. Sess.), ch. 3, and all rules, regulations and orders promulgated thereunder;

(2) Prepare and develop a comprehensive plan or plans related to the environment of the commonwealth;

(3) Encourage industrial, commercial, residential and community development which provides the best usage of land areas, maximizes environmental benefits and minimizes the effects of less desirable environmental conditions;

(4) Develop and conduct a comprehensive program for the management of water, land, and air resources to assure their protection and balance utilization consistent with the environmental policy of the commonwealth;

(5) Provide for the prevention, abatement, and control of all water, land, and air pollution including but not limited to that related to particulates, pesticides, gases, dust, vapors, noise, radiation, odor, nutrients, heated liquid, or other contaminants;

(6) Provide for the control and regulation of strip mining and reclamation in a manner to accomplish the purposes of KRS chapter 350;

(7) Secure necessary scientific, technical, administrative, and operational services, including laboratory facilities, by contract or otherwise;

(8) Collect and disseminate information and conduct educational and training programs relating to the protection of the environment;

(9) Appear and participate in proceedings before any federal regulatory agency involving or affecting the purposes of the department;

(10) Enter and inspect any property or premises for the purpose of investigating either actual or suspected sources of pollution or contamination or for the purpose of ascertaining compliance or noncompliance with Acts 1972 (1st Ex. Sess.), ch. 3, or any rule or regulation which may be promulgated thereunder;

(11) Conduct investigations and hold hearings and compel the attendance of witnesses and the production of accounts, books and records by the issuance of subpoenas;

(12) Accept, receive, and administer grants or other funds or gifts from public and private agencies including the federal government for the purpose of carrying out any of the functions of the department. Such funds received by the department shall be deposited in the state treasury to the account of the department;

(13) Request and receive the assistance of any state or municipal educational institution, experiment station, laboratory, or other agency when it is deemed necessary or beneficial by the department in the performance of its duties.

(14) Advise, consult, and cooperate with other agencies of the commonwealth, other states, the federal government, and interstate and interlocal agencies, and affected persons, groups and industries;

(15) Formulate guides for measuring presently unidentified environmental values and relationships so they can be given appropriate consideration along with social, economic, and technical considerations in decision making;

(16) Monitor the environment to afford more effective and efficient control practices, to identify changes and conditions in ecological systems and to warn of emergency conditions;

(17) Adopt, modify or repeal with the recommendation of the commission any standard, rule, regulation or plan specified in subsections (5) and (6) of KRS 224.045.

(18) Issue, after hearing, orders abating activities in violation of this chapter, or the provisions of Acts 1972 (1st Ex. Sess.), ch. 3, or the regulations promulgated pursuant thereto and requiring the adoption of such remedial measures as the department may deem necessary;

(19) Issue, continue in effect, revoke, modify, suspend or deny under such conditions as the department may prescribe, permits to discharge into any waters of the commonwealth, and for the [installation, alteration, expansion, or] operation of any sewage system; the installation, alteration, or use of any machine, equipment, device or other article that may cause or contribute to air pollution or is intended primarily to prevent or control the emission of air pollution; or the establishment or construction and the operation or maintenance of solid waste disposal sites and facilities; and require that applications for such permits be accompanied by plans, specifications, and such other information as the department deems necessary;

(20) May establish, by regulation, a fee or schedule of fees for the cost of processing applications for permits authorized by this chapter, and for the cost of processing applications for exemptions or partial exemptions which may include but not be limited to the administrative costs of a hearing held as a result of such exemption application, except that applicants for existing or proposed publicly owned facilities shall be exempt from any such charge;

(21) May require for persons discharging into the waters of the commonwealth, by regulation, order or permit, technological levels of treatment and effluent limitations;

(22) Require, by regulation, that any person engaged in any operation regulated pursuant to this chapter install, maintain, and use at such locations and intervals as the department may prescribe any equipment, device or test and the methodologies and procedures for the use of such equipment, device or test to monitor the nature and amount of any substance emitted or discharged into the ambient air or waters of the commonwealth and to provide any information concerning such monitoring to the department in accordance with the provisions of subsection (23) of this section;

(23) Require by regulation that any person engaged in any operation regulated pursuant to this chapter file with the department reports containing information as to location, size, height, rate of emission or discharge, and composition of any substance discharged or emitted into the ambient air or into the waters of the commonwealth, and such other information as the department may require; and

(24) Perform such other and further acts as may be necessary to carry out the duties and responsibilities herein described.

Section 25. KRS 234.100 is amended to read as follows:

(1) As used in KRS 234.100 to 234.160 and 234.990 the term "liquefied petroleum gas" means and includes any material which is composed predominantly of any of the following hydrocarbons, or mixtures of them, whether in the liquid or in the gaseous states: propane, propylene, butane (normal butane or isobutane), and butylene.

(2) "*Commissioner*" ["Secretary"] means *the commissioner* [secretary] of *housing, buildings and construction* [justice].

Section 26. KRS 234.120 is amended to read as follows:

(1) Subject to the exceptions provided in subsection (2), no person shall engage in any of the businesses set out herein without first having obtained from the *commissioner* [secretary] the required license or licenses and paid the prescribed fee therefor:

(a) Selling, to the ultimate consumer or user, of liquefied petroleum gas, of liquefied petroleum gas containers, or of liquefied petroleum gas regulating equipment for use with liquefied petroleum gas, $50.00;

(b) Assembling, repairing, installing or connecting of liquefied petroleum gas containers, or regulating equipment, or liquefied petroleum gas appliances, or any liquefied petroleum gas utilization equipment, or the filling of I.C.C. liquefied petroleum gas containers of less than one hundred (100) pounds capacity, $25.00;

(c) Selling or delivering liquefied petroleum gas in prefilled containers (this does not authorize the filling of containers or delivery by tank truck), $50.00;

(d) The selling of liquefied petroleum gas for use in motor vehicles, as a motor fuel, from storage containers, dispensing devices, and pertinent equipment, $25.00;

(e) Engaging in all the businesses set out in paragraphs (a), (b), (c), and (d), and having not more than five hundred (500) customers (this license shall be in lieu of the four (4) individual licenses required by paragraphs (a), (b), (c), and (d)), $50.00;

(f) Engaging in all the businesses set out in paragraphs (a), (b), (c) and (d) and having more than five hundred (500) customers (this license shall be in lieu of all other licenses), $100;

(g) Storing, for resale, of liquefied petroleum gas in other than I.C.C. containers, except qualifications under (b) or (d), $100;

(h) Transporting of liquefied petroleum gas, by tank truck, over the highways of this state, $100;

(i) Delivering of liquefied petroleum gas to any person, by tank truck, or the delivering, to any person other than the ultimate consumer, in containers, except where the delivering is incidental to the carrying on of a business licensed under paragraph (f) herein, $100;

(j) The filling of liquefied petroleum gas containers of one hundred (100) pound capacity or more, $100;

(k) Engaging in all or any combination of the businesses set out in paragraphs (a) to (j) inclusive (this license shall be in lieu of all individual licenses required herein), $100;

(2) No person shall be required to obtain a license in order to engage in the following activities concerning liquefied petroleum gas:

(a) Storage, by the ultimate consumer, for consumption only;

(b) Transportation, by the ultimate consumer, in quantities of ten (10) gallons or less;

(c) Handling in quantities of less than one (1) gallon United States water capacity, where the gas is an integral part of a device for its utilization;

(d) Use as a fuel, while in the fuel tank of a motor vehicle.

(3) Any person engaged in any business for which a license is required under the provisions of subsection (1) and who engages in such business at more than one (1) office or place of business in this state shall obtain a separate license for each such office or place of business and shall pay therefor the required license fee; except that for the purposes of issuance of licenses under subsection (1) all facilities for the storage only of liquefied petroleum gas for resale within a radius of twenty (20) miles of an office or place of business shall be considered a part of such office or place of business and shall not require separate licensure.

(4) The *commissioner* [secretary] shall further have the authority to make, promulgate, and enforce such reasonable regulations requiring proof of ability to respond in damages for personal injury and property damages in the minimum amount of ten thousand dollars ($10,000), prior to the issuance of a license.

Section 27. KRS 234.130 is amended to read as follows:

(1) The licenses required under KRS 234.120 shall be issued on a calendar year basis and shall be procured from the commissioner prior to the time of beginning business. All licenses and renewals thereof shall expire on December 31 of each year.

(2) Any person applying for a license after July 1 of any year shall be required to pay therefor only one-half (1/2) of the applicable fee for that calendar year.

(3) Every person licensed under the provisions of KRS 234.100 to 234.160 who desires to continue in business shall, during January of each year, procure from the *commissioner* [secretary] a renewal license for which he shall pay a fee equal to the original license fee. Failure to procure a renewal license prior to January 31 of the year for which it is issued shall result in the imposition of a penalty equal to twenty per cent (20%) of the renewal fee which shall be paid to the *commissioner* [secretary] in addition to the renewal fee.

Section 28. KRS 234.140 is amended to read as follows:

(1) The *commissioner* [secretary], after a public hearing thereon, shall make, promulgate, and enforce regulations setting forth minimum general standards covering the design, construction, location, installation, and operation of equipment for storing, handling, transporting by tank truck, tank trailer, and utilizing liquefied petroleum gases, and specifying the odorization of said gases and the degree thereof. Said regulations shall be such as are reasonably necessary for the protection of the health, welfare and safety of the public and persons using such materials, and shall be in substantial conformity with the generally accepted standards of safety concerning the same subject matter. *Regulations concerning the construction of buildings relating to liquefied petroleum gases shall conform to the uniform state building code after said code is promulgated.*

(2) The *commissioner* [secretary] shall promulgate any additional rules and regulations which he deems necessary to provide for the safe storage, handling, transportation and use of liquefied petroleum gas.

Section 29. KRS 234.160 is amended to read as follows:

All moneys collected under the provisions of KRS 234.100 to 234.160 shall be paid into the state treasury and credited to a trust and agency fund to be used by the department of *housing, buildings and construction* [justice] solely for the administration and enforcement of KRS 234.100 to 234.160 and 234.990.

Section 30. KRS 234.171 is amended to read as follows:

The *commissioner* [secretary of justice] may appoint an advisory board composed of persons actively engaged in the liquefied petroleum gas industry in the state of Kentucky. The board shall give the *commissioner* [secretary] the benefit of its technical knowledge to aid him in supervising and regulating the liquefied petroleum gas industry.

Section 31. KRS 234.175 is amended to read as follows:

(1) Domestic and commercial gas consuming equipment and appliances shall not be installed unless their correctness as to design, construction, and performance is certified by:

(a) A nationally recognized testing agency adequately equipped and competent to perform such services evidenced by the attachment of its seal or label to such gas appliances. This agency shall be one which maintains a program of national inspection of production models of gas appliances, at least once each year on the manufacturer's premises;

(b) By the American Gas Association Laboratories, as evidenced by the attachment of its listing symbol or approval seal to gas appliances and a certificate or letter certifying approval under the above-mentioned requirements, or listing by Underwriters' Laboratories, Inc., shall be considered as constituting compliance with the provisions of this section, providing, that the manufacturer has approval and certification of same from the *department of housing, buildings and construction* [liquefied petroleum gas bureau, department of justice].

(2) Equipment not subject to A.G.A. or laboratory inspection must have approval of the *department of housing, buildings and construction* [liquefied petroleum gas bureau of the department of justice].

Section 32. KRS 234.180 is amended to read as follows:

(1) For plants storing liquefied petroleum gases, and used for the dispensing of liquefied petroleum gases in liquid state into container or containers, for resale, plans shall be submitted, in duplicate, to the *department of housing, buildings and construction* [liquefied petroleum gas bureau, department of justice,] and shall be approved by said *department* [bureau] before construction is started. Plans so submitted shall show the following information as a minimum:

(a) The name and address of the owner, and the name and purpose of the plant proposed;

(b) Location of the proposed plant in relation to the nearest city, town, highways, railroads, and built up areas;

(c) A plot plan showing dimensions of the area proposed to be used for the plant, distances to the nearest property lines and the location and construction of any buildings which might affect the distances required under regulations adopted by the *department of housing, buildings and construction* [secretary of justice];

(d) Construction drawings showing the arrangement and construction of all tanks, tank supports, piping, accessories, buildings, and appurtenant items of construction. These drawings shall be in sufficient detail to allow a contractor who is familiar with tank and pipe installation but not necessarily familiar with liquefied petroleum gas installations to use such drawings to satisfactorily complete the installation without further instructions;

(e) A copy of the original boiler inspector's report of inspection of the tank or tanks to be used or a reference to manufacturer's name and serial number of the tank so that such report may be obtained direct;

(f) The date of completion of the plans, the dates of any subsequent revisions and the signature of the person assuming responsibility for the correctness of the plans.

(2) For plants, installed for industrial or commercial usage, having a nominal water capacity of 150 gallons or over and serving an aggregate BTU usage of 150,000 BTUs or over and/or used for dispensing liquefied petroleum gas into other containers, not for resale, a report of installation, giving location and equipment installed, must be made to the *department of housing, buildings and construction* [liquefied petroleum gas bureau, department of justice,] not later than ten (10) days after installation.

Section 33. KRS 236.010 is amended to read as follows:

As used in this chapter,

(1) "Boiler" or "boilers" shall mean and include steam or vapor boilers operating at less than 500 pounds per square inch gauge or at less than 500 degrees Fahrenheit, hot water heating boilers and hot water supply boilers.

(2) "Commissioner" means the commissioner of *housing, buildings and construction* [insurance].

(3) "Department" means the department of *housing, buildings, and construction* [insurance].

(4) "ASME" means American society of mechanical engineers.

(5) "Board" means board of boiler rules.

Section 34. KRS 236.020 is amended to read as follows:

(1) In the department of *housing, buildings and construction* [insurance] there shall be a board of boiler rules, which shall hereafter be referred to as the board, consisting of seven (7) members including the commissioner who shall serve as chairman. The other members shall be appointed to the board by the governor; one (1) for a term of one (1) year, one (1) for a term of two (2) years, two (2) for a term of three (3) years and two (2) for a term of four (4) years, or until their successors are appointed and qualified. At the expiration of their respective terms of office they, or their successors identifiable with the same interest

respectively as provided in this section, shall be appointed for terms of four (4) years each. The governor may at any time remove any member of the board. Upon the death or incapacity of any member the governor shall fill the vacancy for the remainder of the vacated term with a representative of the same interests with which his predecessor was identified. Of these six (6) appointed members one (1) shall be a practical steam operating engineer of high pressure boilers, or any other representative of owners and users of high pressure boilers within the state; one (1) shall be a representative of the boiler manufacturers within the state; one (1) shall be representative of a boiler insurance company licensed to do business within the state; one (1) shall be a representative of the boilermakers within the state; one (1) shall be a metallurgist specialized in ferrous welding procedures, a practical welder on pressure piping of wide experience or a representative of pipe erecting concerns doing business within the state of Kentucky; and one (1) member shall be a representative of welders or other skilled crafts engaged in erection of pressure piping related to boilers. The board shall meet at least four (4) times each year at the capitol or other place designated by the board. No approval, decision or ruling of the board shall be effective unless supported by the vote of at least (4) members thereof.

(2) The members of the board shall serve without salary and shall receive their actual necessary expenses, incurred while in the performance of their duties as members of the board, to be paid in the same manner as in the case of other state officers.

Section 35. KRS 236.030 is amended to read as follows:

After reasonable notice and opportunity to be heard, the commissioner of *housing, buildings and construction* [insurance], upon advisement by the board, shall by general order, rule or regulation, fix reasonable standards for the safe construction, installation, inspection and repair of boilers and associated pressure piping in this state. Orders, rules and regulations prescribed by the board shall be enforced by the department of *housing, buildings and construction* [insurance].

Section 36. KRS 236.060 is amended to read as follows:

(1) KRS 236.005 to 236.150 shall not apply to boilers or related piping under federal control.

(2) KRS 236.005 to 236.150 shall not apply to the following boilers or related piping:

(a) Boilers located on farms and used solely for agricultural purposes;

(b) Boilers located at any oil refineries;

(c) Steam or vapor boilers used for heating purposes carrying a pressure of not more than fifteen (15) pounds per square inch gauge, and which are located in private residences or in apartment houses of less than six (6) families;

(d) Hot water heating boilers carrying a pressure of not more than thirty (30) pounds per square inch gauge which are located in private residences or in apartment houses of less than six (6) families or hot water supply boilers which are located in private residences or in apartment houses of less than six (6) families.

(e) Any unfired pressure vessels used as containers for liquefied petroleum gases and subject to the jurisdiction of the department of *housing, buildings and construction* [insurance] under KRS chapter 234.

Section 37. KRS 219.350 is amended to read as follows:

No park shall be constructed or altered without a permit as provided in KRS 219.310 to 219.410. An application for a permit to construct or alter a park shall be made to the department upon forms provided by it. The application shall include plans for construction or alteration of the park and shall contain such information in regard to the proposed park as the department may reasonably require, which may include affirmative evidence of ability to comply with requirements of KRS 219.310 to 219.410 and regulations adopted by the secretary. *All plans for the construction, installation or alteration of buildings shall be forwarded by the department to the department of housing, buildings and construction. Only the department of housing, buildings and construction shall review such plans for conformance with the uniform state building code. The department of housing, buildings and construction shall expedite the review of such plans and return them to the department for human resources for completion of the application process.* Each application for a permit to construct or alter a park shall be accompanied by a permit fee of twenty-five dollars. Each permit to construct shall be issued only for the person and premises, including the number of spaces named in the application and shall not be transferable. Each permit to construct shall expire one year from date of issuance.

Section 38. KRS 219.370 is amended to read as follows:

The secretary shall adopt rules and regulations for the effective administration and enforcement of KRS 219.310 to 219.410, which may include but are not limited to, standards for park construction and layout, service buildings, watering stations, sanitary stations, sanitation, site planning, lot size, water supply, sewage disposal, lighting, refuse handling, insect and rodent control, inspections, hearings, issuance, suspension, and revocation of permits, and such other matters as may be necessary to insure a safe and sanitary park operation. *All building construction regulations shall conform to the uniform state building code.* The secretary is empowered to establish separate rules and regulations for mobile home parks and recreational vehicle parks.

Section 39. KRS 227.200 is amended to read as follows:

As used in KRS 227.200 to 227.400, unless the context otherwise requires:

(1) "Commissioner" means the commissioner of *housing, buildings and construction* [insurance];

(2) "Department" means the department of *housing, buildings and construction* [insurance];

(3) "Fire loss" means loss of or damage to property, loss of life or personal injury, by fire, lightning or explosion;

(4) "Owner" means any person who owns, occupies or has charge of any property;

(5) "Property" means property of all types, both real and personal, movable and immovable;

(6) "Rule" or "regulation" means a general order of the commissioner, designed for the prevention of fire loss, which affects or may affect property rights of a designated class of owners or for the prevention of fire loss by certain indicated hazards;

(7) "Order" or "special order" means an order of the commissioner, designed for the prevention of fire loss, which affects or may affect the property rights of a particular owner or designated property;

(8) As used in this section and KRS 227.305, unless the context otherwise requires:

(a) "Physically handicapped person" shall mean a person confined to a wheelchair; a person who uses braces or crutches; a person who because of the loss of a foot or leg or because of an arthritic, spastic, pulmonary or cardiac condition, walks with difficulty or insecurity; a person who suffers from a faulty coordination or palsy; a person who is blind or whose sight is so impaired that, functioning in a public area, he is insecure or exposed to danger; a person whose hearing is so impaired that he is unable to hear warning signals; and a person whose mobility, flexibility, coordination and perceptiveness are significantly reduced by aging;

(b) "Public building" shall mean any building constructed, owned or leased by the commonwealth or any political subdivision thereof;

(c) "Public accommodation" shall mean any building defined as a public accommodation by Title II of the Federal Civil Rights Act of 1964, whether or not it affects interstate commerce;

(d) "Facility for physically handicapped persons" shall mean any convenience or device which facilitates the health, safety or comfort of a handicapped person, including, but not limited to, ramps, handrails, elevators, and doors;

[(e) "American National Standard Institute Specifications" shall mean the American National Standard Institute Specifications for Making Buildings and Facilities Accessible to, and usable by, the Physically Handicapped, A 117.1-1961; and]

(e) [(f)] "Remodel" shall mean, with respect to an existing public building or public accommodation, to construct an addition, make substantial repairs, or substantially alter the appearance, design or layout.

Section 40. KRS 227.300 is amended to read as follows:

(1) The commissioner shall promulgate reasonable rules and regulations based upon good engineering practice and principles as embodied in recognized standards of fire prevention and protection, providing for a reasonable degree of safety for human life against the exigencies of fire and panic, and insuring as far as is practicable against fire loss. Such rules and regulations shall be known as the standards of safety. *After promulgation of the uniform state building code, no part of the standards of safety shall contradict the uniform state building code or establish in whole or in part, any building code other than the uniform state building code.*

(2) In making such rules and regulations the commissioner shall establish minimum fire prevention and protection requirements, including but not limited to requirements for design, construction, installation, operation, storage, handling, maintenance or use of the following: structural requirements for the various types of construction; building restrictions within congested districts; exit facilities from structures; fire alarm systems and fire extinguishing systems; fire emergency drills; requirements for buildings of public assembly; flue and chimney construction; heating devices; electrical wiring and equipment; air conditioning, ventilating and other duct systems; refrigeration systems; flammable liquids, oil and gas wells; garages, repair and service shops; application of flammable finishes, explosives, acetylene, liquefied petroleum gas and similar products; calcium carbide and acetylene generators; dry cleaning and dyeing plants; flammable motion picture film; combustible fibres; airports and airport buildings; hazardous chemicals; rubbish, open flame devices; parking of vehicles; dust explosions; lightning protection; and other special fire hazards.

Section 41. KRS 227.305 is amended to read as follows:

(1) The *board of housing, buildings and construction* [state fire marshal] shall issue regulations relating to the minimum requirements for facilities for physically handicapped persons in all public buildings and public accommodations to be constructed or remodeled after June 21, 1974. [In doing so he shall adopt those standards known as the American National Standard Institute Specifications.]

(2) After June 21, 1974, no building permit or other official authorization for construction or remodeling of a public building or public accommodation by any person is valid unless the plans and specifications are in compliance with the regulations issued by the *board of housing, buildings and construction* [state fire marshal] pursuant to this section and KRS 227.200.

Section 42. KRS 227.410 is amended to read as follows:

(1) As used in this section and KRS 227.991:

(a) "Gas-fired heating device" means a gas burning appliance of either a gravity or mechanical circulation type, designed for the heating of air or of water in an enclosed structure.

(b) "Gas-fired room heating device of the unventable type" means a self-contained, free standing, air heating, gas-fired appliance, designed as a space heater for an enclosed structure.

(c) "Enclosed structure" includes a room used for public assembly, educational, instructional, mercantile, office, or residential purposes (including mobile homes, travel trailers and houseboats).

(2) No person, firm or corporation shall sell at retail or wholesale, or offer or expose for sale at retail or wholesale any gas-fired room heating device of the unventable type, or other type which has not been approved as provided in KRS 234.175, except unvented heaters that are built and sold solely for the curing of tobacco, which if sold or used by any person for any other purpose shall subject him to the penalty set forth in KRS 227.991.

(3) No person, firm or corporation shall install in any room or enclosed structure any gas-fired room heating device of the unventable type or other type which has not been approved as provided in KRS 234.175.

(4) No person, firm or corporation may install any gas-fired heating device of the ventable type for use in any room or enclosed structure unless said device is vented in accordance with the provisions of the standards of safety of the department of *housing, buildings and construction* [insurance].

(5) No person, firm, or corporation who may own a gas-fired heating device of the unventable type or a gas-fired heating device of the ventable type, which has not been approved as provided in KRS 234.175, or which does not conform to the provisions of the standards of safety of the department of insurance (all of which heating devices are referred to as "proscribed heaters" in this subsection and subsection (6) of this section), or who may occupy an enclosed structure in which such a proscribed heater is installed, shall continue to use or operate said proscribed heater after receipt of a written order described in subsection (6) of this section, and before the conditions contained in said order are met.

(6) Cities of the first or second class may under ordinance duly enacted appoint inspectors or officers who have power to issue written orders directing owners of heaters or occupants of structures in which heaters are installed, to discontinue the use or operation of a proscribed heater and to specify conditions which must be met before said proscribed heater may again be used or operated. Said order may be issued if said authorized person has actual knowledge of the existence of a proscribed heater, and, in the opinion of said authorized person, the continued use or operation of said proscribed heater would constitute a danger to life or health; provided however, no person, agency, firm, or corporation (other than the owner, user, seller or installer of a proscribed heater) shall be liable for civil damages for his or its failure to recognize a proscribed heater, for failure to issue the order described in this subsection, for complying with said order, for assisting with the compliance therewith, or for allowing the continued use or operation of a proscribed heater prior to receipt of said order.

(7) This section shall not apply to liquefied petroleum gas heaters subject to the jurisdiction of the department [of insurance] under KRS chapter 234, except those liquefied petroleum gas heaters sold or installed for residential usage.

Section 43. KRS 227.460 is amended to read as follows:

(1) KRS 227.450 to 227.500 apply to *all* cities [of the second and third classes,] and counties [containing those cities].

(2) KRS 227.450 to 227.500 shall not apply to rural electric cooperatives, to factory maintenance employes or any employes of the utility companies, railroads or municipalities in pursuit of their respective employer's business.

Section 44. KRS 227.470 is amended to read as follows:

Any action authorized by the provisions of KRS 227.450 to KRS 227.500 to be accomplished by a city or county may be undertaken *cooperatively by two (2) or more local governments upon a resolution by the governing body of each local government to do so* [by the city and county jointly]. *Such cooperative agreements shall conform to the provisions of KRS Chapter 65.* [The provisions of KRS 227.450 to 227.500 may only be accomplished jointly by city and county where a joint resolution is passed, both by the fiscal court and the governing body of the city and in such instance where a joint resolution fails, the provisions of KRS 227.450 to KRS 227.500 may be accomplished separately by the city and the county.]

Section 45. KRS 227.480 is amended to read as follows:

(1) A city or county *shall, when the uniform state building code as it pertains to the plan review responsibilities of local government takes effect,* [may] require any person to obtain permits before commencing construction, alteration or repairs of any electrical wiring, and require such inspection as it deems necessary for the safety of life and property. *A city or county may require such permits and inspections prior to the time when the uniform state building code local government plan review responsibilities take effect.*

(2) Reasonable standards for the construction, alteration and repair of any electrical wiring shall be *those adopted in the uniform state building code after said code is promulgated by the Board of Housing, Buildings and Construction.* [adopted by the city or the county and shall have as a minimum standard the requirements of the national electric code which is incorporated into the state standards of safety.] *These standards* [The standards so adopted by the city or the county] shall be used by the electrical inspector in making his inspections.

Section 46. KRS 227.489 is amended to read as follows:

The *Commissioner of Housing, Buildings and Construction* [public service commission] shall require electrical inspectors to be certified. Examinations shall be based on the national electrical code *or the code* incorporated in *the uniform state building code after said code is promulgated* [article II of the standards of safety prescribed by the public service commission]. Electrical inspectors who have been engaged in the inspection of electrical light and power wiring installations, based on the requirements of the national electrical code, for a period of five (5) years, may be certified on the basis of knowledge of this subject and experience.

Section 47. KRS 227.490 is amended to read as follows:

(1) A city or county may require all electrical contractors and electricians, except those who have had at least five (5) years of experience as an electrical contractor [and/]or electrician, to be examined by an examining board before being issued a license to engage in their occupation. An electrician desiring to become a contractor may apply for an examination to the examining board. A city or county may require all nonresident electrical contractors and electricians to conform to reasonable standards prior to engaging in their occupation within the jurisdiction of the city or county.

(2) The examining board shall be composed of seven (7) members appointed by the city or the county and in such instances as where the provisions of KRS 227.450 to 227.500 are accomplished jointly as provided for in KRS 227.470, the appointment shall be by joint resolution of the governing body of *each local government which is party to the cooperative agreement. Such cooperative agreement shall conform to the provisions of KRS Chapter 65.* [the city and the county.] The board shall consist of two (2) fire department officials, two (2) consulting electrical engineers or architects, two (2) electrical contractors and one (1) utility company official. No appointee shall serve more than two (2) consecutive years.

(3) The members of the examining board shall serve without salary.

(4) In order to administer KRS 227.450 to 227.500, the board may issue and revoke licenses [,hear and settle disputes over code questions and how it shall apply in their area]; conduct and make regulations for conducting examinations of applicants; govern the method and time of making application for examination and the time within which applicant shall be examined after application has been filed. It may adopt any other reasonable regulations to administer KRS 227.450 to 227.500.

(5) Electrical contractors and electricians may be required to pay a reasonable fee before issuance of a license to them.

Section 48. KRS 318.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Department" means *Department of Housing, Buildings and Construction* [Department for Human Resources];

(2) "Journeyman plumber" means a person who engages or offers to engage, either as an occupation or otherwise, in the construction, installation, alteration, maintenance, repair, remodeling or removal, and replacement of plumbing under the supervision, direction and responsibility of a master plumber;

(3) "Master plumber" means a person who assumes responsible charge, supervision or direction of journeyman plumbers, plumbers' apprentices and other persons in the construction, installation or alteration of plumbing or who engages in, offers to engage in or advertises or otherwise represents that he is permitted or qualified to engage in the design, planning, superintending, contracting for or responsible charge of plumbing;

(4) "Plumbing" means the art of installing [in buildings] the pipes for distributing the water supply, the fixtures for using water and drainage pipes for removing waste water and sewage, together with fittings, appurtenances, and appliances of various kinds [, all within or adjacent to the building]. It shall include:

[(a) The water service pipe which forms the connection between the property line and the building other than piping serving fire-fighting equipment;]

(a) [(b) Private water] *Water* supply systems;

(b) [(c)] *Sewage disposal systems* [House sewers which convey the waste water and sewage from the building to the property line or other points of disposal but not including sewers located between manholes and sewers extending five (5) feet from a main or manhole on private property]; and

(c) [(d)] Storm sewers and rain water piping [located within a building to a point two (2) feet outside of the building and private sewage disposal systems other than those which have a treated affluent].

(5) "Public buildings" means any building *or water supply or sewage disposal system* intended for public use or built with public funds and includes but is not limited to the following: *water purification plants and distribution systems, sewage disposal systems, swimming pools,* schools, industrial establishments, housing projects, restaurants, food-handling establishments, private clubs, theaters including drive-ins, trailer coach parks, camping areas, hospitals, nursing homes, hotels, motels, tourist courts, rooming houses, boarding houses, and other establishments furnishing public sleeping accommodations;

(6) "Maintenance man" means a person employed to maintain and keep plumbing in good repair;

(7) "Apprentice" means a person in the process of learning the plumbing trade who assists and is under the personal supervision of a licensed master or licensed journeyman plumber;

(8) "Farmstead" means a farm dwelling together with other farm buildings and structures incident to the operation and maintenance of the farm located outside the corporate limits of a municipality and not connected to a public water supply.

(9) "Commissioner" means the Commissioner of the Department of Housing, Buildings and Construction.

Section 49. KRS 318.040 is amended to read as follows:

(1) An applicant for a master or journeyman plumber's license shall:

(a) Be at least eighteen (18) years of age;

(b) Be of good moral character;

(c) Be a citizen of the United States or have filed with the United States district court "first papers" for United States citizenship; and

(d) Possess all the other qualifications that may be prescribed by rules and regulations of the *commissioner* [secretary].

(2) Except as otherwise provided in this chapter, no master or journeyman plumber's license shall be issued except upon a successful passage of an examination as prescribed by the department.

(3) Examinations for a license as a master plumber or journeyman plumber shall be conducted at such times and places as may be fixed by the regulations of the *commissioner* [secretary]. Applicants for an examination shall furnish such information as may be required by the *commissioner* [secretary] and shall receive from the department due notice of the time and place of the examination.

(4) The department shall prepare or cause to be prepared under its supervision examinations consisting of written and practical tests with such questions and tests as in the discretion of the department will determine:

(a) With respect to master plumber's license applicants, that such applicants are qualified in view of the definitions, provisions, and purposes of this chapter to carry on responsibly, reasonably, and competently, the activities which a licensed master plumber is authorized to engage in by this chapter; and

(b) With respect to journeyman plumber's license applicants, their knowledge and competency to carry on the activities which a licensed journeyman plumber is authorized to engage in by this chapter.

(5) The examination papers shall be preserved by the department for a period of one (1) year.

Section 50. KRS 318.054 is amended to read as follows:

(1) Every master and journeyman plumber's license issued by the department shall expire on June 30 of each year following the date of issuance unless sooner canceled or revoked.

(2) On or before June 1 of each year, the department shall send notices to all licensed master and journeyman plumbers in this state, at their last known addresses, advising them that the annual license renewal fee is due on July 1. The annual license renewal fee shall be a reasonable fee set by regulation of the *commissioner* [secretary]. The fee for the renewal of a master plumber's license shall exceed the fee charged for a journeyman plumber's license.

(3) Any master or journeyman plumber who fails to renew his license on or before July 1 of each year may have his license renewed upon payment of the required renewal fee and a revival fee. The revival fee for a master plumber shall be five dollars ($5.00) and for a journeyman plumber three dollars ($3.00). If the renewal and revival fees are not paid by January 1 of the following year, such licenses shall be automatically canceled by operation of law for nonpayment; Provided, however, That such licenses may be reinstated upon payment of all delinquent renewal fees plus a revival fee of ten dollars ($10.00) for a master plumber and six dollars ($6.00) for a journeyman plumber. Upon presentation of proper evidence, the department may waive payment of any renewal or revival fee specified herein for persons serving on active duty in the armed forces of the

United States.

Section 51. KRS 318.064 is amended to read as follows:

The department may revoke or suspend any plumber's license issued by it upon proof that the licensee has:

(1) Knowingly violated the provisions of this chapter or the Kentucky state plumbing code, or the rules and regulations of the *commissioner* [secretary];

(2) Practiced fraud or deception in applying for or obtaining a license;

(3) Is incompetent to perform services as a licensed master plumber or a licensed journeyman plumber;

(4) Permitted his license to be used directly or indirectly by another to obtain or perform plumbing work or services; or

(5) Is guilty of such other unprofessional or dishonorable conduct of a character likely to deceive or defraud the public.

Section 52. KRS 318.066 is amended to read as follows:

(1) No license shall be suspended or revoked by the department unless a hearing has been conducted or an opportunity afforded therefor, at which the holder of the license shall have the right to be present in person or by counsel and to present evidence and be heard in his own behalf. The holder of the license shall be given written notice of the hearing at least thirty (30) days prior to the date thereof. The notice shall state the time and place of the hearing and set forth the ground or grounds for the suspension or revocation in sufficient detail to apprise the holder of the license of the charges preferred against him. Upon failure of the holder of the license to respond to the complaint at or before the time of the hearing thereon, the allegations set forth in the complaint shall be taken by the department as confessed. Proceedings at such hearings shall be in accordance with the rules and regulations of the *commissioner* [board].

(2) The department shall appoint and provide for a hearing officer to conduct such hearings. The hearing officer shall have authority to issue subpoenas for the attendance of witnesses and the production of papers and records, administer oaths, schedule hearings and otherwise act in the name and on behalf of the department, but shall not have authority to suspend or revoke licenses. He shall cause to be prepared and shall certify to the department a complete written transcript of the record of each hearing, including all pleas, motions and other papers relating thereto, for consideration and decision by the department. An order of the department suspending or revoking a license shall be effective thirty (30) days after notice of the entry of such order is given the holder thereof.

(3) Each notice required by this section to be given a licensee shall be served by forwarding same by certified mail, return receipt requested or by registered mail, postage prepaid, to the holder at his address as it appears in the records of the department.

(4) A licensee aggrieved by an order of the department suspending or revoking a license may, within thirty (30) days after notice thereof, appeal therefrom to the *commissioner* [board in the manner provided by KRS 311.595]. The decision of the *commissioner* [board] shall be based on the transcript of evidence prepared by the hearing officer.

(5) A person aggrieved by an order of the *commissioner* [board] suspending or revoking a license may, within thirty (30) days after notice of such suspension or revocation, appeal therefrom to the circuit court of the county in which the principal office of the department is located by filing a statement of appeal therein together with an appeal bond with good and sufficient surety to secure the payment of any costs charged against him on the appeal. The cost of preparing and certifying the record shall be paid to the department by the appellant and taxed as costs in the action to be paid as directed by the court upon final determination of the action. The appeal shall be determined by the court upon the certified record and no new or additional evidence shall be heard or considered by the court.

(6) Either party aggrieved by a final order entered by the circuit court may appeal to the Court of Appeals as in a civil action.

Section 53. KRS 318.071 is amended to read as follows:

(1) There is hereby created a state plumbing code committee which shall be established within the *Department of Housing, Buildings and Construction* [department for human resources] for administrative purposes. The state plumbing code committee shall consist of seven (7) members, one (1) of whom shall be a builder member of the Home Builders Association of Kentucky, one (1) of whom shall be a member of the Association of General Contractors, one (1) of whom shall be a member of the Kentucky Master Plumbers Association, one (1) of whom shall be a member of the Kentucky Society of Professional Engineers (who shall have a background in sanitary engineering), one (1) of whom shall be a member of the American Institute of Architects, one (1) of whom shall be a member of the United Association of Journeyman Plumbers, and one (1) of whom shall be a member of the Mechanical Contractors Association. Each member of the state plumbing code committee shall receive no compensation but shall be reimbursed for all necessary expenses. The

members of the committee shall be appointed by the governor from lists of three (3) names submitted by the above mentioned organizations.

(2) Each member shall be appointed for and hold office a term of two (2) years or until his successor is appointed and qualified.

(3) At all times in the filling of vacancies of membership on the committee the balance of representation set out in subsection (1) shall be maintained.

Section 54. KRS 318.074 is amended to read as follows:

The committee shall elect from its members one (1) to serve as chairman, one (1) as vice-chairman, and the *commissioner* [secretary for human resources] shall serve as ex-officio member of the board (without a vote) and secretary. The board shall meet at least quarterly and upon special call by the chairman.

Section 55. KRS 318.077 is amended to read as follows:

The committee shall hold hearings, upon adequate notice to affected parties, before the enactment of any rule, regulation or amendment to the code, specifying the matters to be considered thereat. Any person aggrieved by any such rule, regulation or amendment approved by the *commissioner* [secretary for human resources], within 30 days after such action has become final, may appeal therefrom to the circuit court. For the purposes of this section, "persons aggrieved" shall include any person directly or indirectly injured or threatened with injury on account of any such regulation, rule or amendment, whether or not such person was a party to the proceedings out of which the order, rule, regulation or amendment arose.

Section 56. KRS 318.080 is amended to read as follows:

(1) In order to conduct examinations for persons to qualify as licensed master plumbers or journeyman plumbers, the department shall appoint as examiners the following persons to a state plumbers examining committee: An employe of the Department *of Housing, Buildings and Construction* [for Human Resources] and three (3) other persons who shall be licensed either as master or journeyman plumbers. The *commissioner* [Secretary for Human Resources] shall be an ex-officio examiner and permanent secretary of the committee. With the exception of the issuance of any order involving the revocation, suspension or cancellation of a master or journeyman plumber's license, the *commissioner* [Secretary for Human Resources] may delegate to a subordinate employe in the department the power to be present and participate, including the right to vote, as his representative at any meeting, hearing or other proceeding of the state plumbers examining committee. Plumber examiners shall serve at the pleasure of the department.

(2) The department shall appoint assistant plumber examiners who shall be qualified licensed master or journeyman plumbers who shall serve at the pleasure of the department. Assistant plumber examiners shall perform such duties as are delegated to them by the state plumbers examining committee.

(3) Plumber examiners and assistant plumber examiners shall receive no compensation for their services but shall be reimbursed for their necessary traveling expenses.

Section 57. KRS 318.130 is amended to read as follows:

(1) In order to administer this chapter, the state plumbing code committee shall promulgate and thereafter from time to time may amend a code to be known as the Kentucky state plumbing code, regulating the construction, installation and alteration of plumbing and plumbing fixtures and appliances, *storm sewers, all sewage disposal systems, private water supplies, public water purification plants and distribution systems, the water supply and distribution aspects of swimming pools,* [house sewers or private sewage disposal systems and private water supplies,] methods and materials to be used therein within this state, using as a minimum standard the basic principles of the national plumbing code coordinating committee, as evidenced by that committee's final report of 1951 with variations thereof or additions thereto as the *commissioner* [secretary] considers are warranted by local, climatic or other conditions. The code may also designate the number of plumbing fixtures for public buildings. The state plumbing code committee may adopt any other reasonable rule or regulation to administer this chapter. No rules or regulations so approved by the committee shall become effective except upon adoption by the *commissioner* [secretary for human resources].

(2) The *commissioner* [secretary] may continue in effect any plumbing code duly promulgated by *the state board of health* [them] on file with the Legislative Research Commission in Frankfort, Kentucky, on June 16, 1966.

Section 58. KRS 318.134 is amended to read as follows:

(1) No person, firm or corporation shall:

(a) Construct, install, or alter, or cause to be constructed, installed, or altered, any plumbing without first having procured a plumbing installation permit therefor from the department;

(b) Use or continue to use, or permit the use or continued use of, any plumbing constructed, installed, or altered under a plumbing installation permit issued therefor where the department, through a duly authorized inspector, employe or agent, finds that the plumbing was not constructed, installed or altered in accordance with such permit and the Kentucky state plumbing code.

(2) All applications for plumbing installation permits shall be accompanied by plans and specifications of the proposed plumbing installation, location and construction of water supply system, type of sewage disposal, location of septic tank, drain field or pit to be used. No plumbing installation permit shall be issued until plans of the sewage disposal have been submitted to and approved by the department together with the results of an approved percolation test.

(3) The *commissioner* [board] shall fix a reasonable schedule of fees and charges to be paid for plumbing installation permits and the necessary inspections incident thereto. The *commissioner* [board] shall also fix a reasonable schedule of fees and charges to be paid for necessary inspections of the construction, installation or alteration of plumbing in public buildings.

Section 59. KRS 318.136 is amended to read as follows:

All license fees, permit and inspection fees and charges, and other moneys collected by the department, under the provisions of this chapter and the rules and regulations of the *commissioner* [secretary] adopted hereunder, shall be paid into the state treasury and credited to a trust and agency fund to be used by the department in carrying out the provisions of this chapter. No part of this fund shall revert to the general fund of the commonwealth. All moneys held in a trust and agency fund or other fund to the credit of the department for the administration and enforcement of this chapter on June 16, 1960, are hereby transferred to the trust and agency fund herein created.

Section 60. KRS 318.140 is amended to read as follows:

(1) Any *local government* [city of the first, second, or third class] may, by ordinance, enact a plumbing code, not less stringent in its provisions than the Kentucky state plumbing code, regulating the construction, installation, or alteration of plumbing within such *local government,* [city,] providing for the issuance of plumbing installation permits and fixing permit and inspection fees. *Two or more local governments may, by ordinance of each local government, enact a plumbing code as described in this section which shall be jointly enforced and administered by said local governments within their boundaries. Agreements for joint enforcement shall conform to the provisions of KRS Chapter 65.* The department may authorize any such *local government or combination of local governments* [city] to administer, carry out, and enforce the Kentucky state plumbing code and the rules and regulations of the *commissioner* [secretary] relating thereto and to issue permits and make inspections thereunder within such *local government* [city], in which event a permit issued under the provisions of the *local government* [city] plumbing code ordinance shall be deemed a permit issued by the department; Provided, however, That inspectors of the department shall have concurrent jurisdiction with *local government* [city] plumbing inspectors in the enforcement in such cities of the Kentucky state plumbing code.

(2) Any *local government* [city] enacting a plumbing code ordinance may appoint and fix the compensation of *local government* [city] plumbing inspectors. No person shall be eligible for appointment as a *local government* [city] plumbing inspector unless he has at least eight (8) years' experience as a master or journeyman plumber. At the time of his appointment he shall be licensed in accordance with the provisions of this chapter.

(3) Nothing contained in this chapter shall be construed as prohibiting a *local government* [city] from collecting occupational license fees from persons, firms or corporations engaged in the plumbing business.

Section 61. KRS 318.160 is amended to read as follows:

Except as otherwise provided by law or by regulation of the *commissioner,* [secretary,] no person shall construct, install, or extensively alter any plumbing, sewerage or water supply system of any public building or establishment without having first obtained the approval of the department in writing. Detailed plans and specifications of the proposed facility showing the plumbing system, sewage disposal system, and water supply system shall be submitted to the department prior to the construction or alteration of the facility. In the event no public sewer is available, the plan shall include the proposed type of sewage disposal system. In the event a sewage subsoil drainage system is used, a complete soil study, including among other pertinent data, the results of percolation tests shall be submitted. Such percolation tests shall be conducted in accordance with the standards adopted by the department. All plans and specifications shall be submitted in triplicate to the department. The department shall notify the applicant in writing of the approval or disapproval of the plans. The construction, installation or alteration shall be done in accordance with the approved plans.

Section 62. KRS 318.180 is amended to read as follows:

(1) Notwithstanding the existence or pursuit of any other remedy (civil or criminal) the department, or its officers, agents, or inspectors, are hereby authorized to institute and maintain actions to restrain and enjoin any violation of this chapter, the state plumbing code, or the rules and regulations of the *commissioner* [

secretary] relating thereto.

(2) City, county and commonwealth's attorneys, and the attorney general, shall within their respective jurisdictions represent the department, its officers, agents, and inspectors, in the enforcement of the provisions of this chapter, the state plumbing code, and the rules and regulations of the *commissioner* [secretary] relating thereto, but when the department deems it necessary, it may employ, at its discretion, special attorneys to assist the department, or its officers, agents, or inspectors, and may pay reasonable compensation, fees and other costs from any unexpended plumbing funds.

Section 63. KRS 67.380 is amended to read as follows:

The fiscal court of any county shall have authority, by order or resolution, to adopt, [and modify or amend from time to time,] and to enforce, regulations governing the construction, reconstruction, remodeling, repair and maintenance of buildings, *pursuant to the provisions of Section 6 of this Act.* [other than buildings for agricultural purposes located upon premises that are used solely for agricultural purposes.]

Section 64. KRS 67.410 is amended to read as follows:

(1) The fiscal court of any such county [containing a city of the first or second class] may appoint a qualified and competent person to administer such regulations. His official title shall be "Building Inspector of .... County, Kentucky." His salary shall be fixed by the fiscal court, and paid out of the county levy. He shall have such deputies and assistants as the fiscal court deems necessary, and their salaries shall likewise be fixed by the fiscal court and paid out of the county levy. The fiscal court shall also pay out of county funds the necessary expenses of his office. The fiscal court may contract with individuals or corporations for the performance of technical or scientific services required for the proper enforcement and administration of its building regulations.

(2) No person shall build, erect, construct, reconstruct, remodel, relocate, alter or repair any building within the county without first obtaining a building permit from the building inspector.

(3) The fiscal court shall establish a system of reasonable fees to be charged every applicant for such permit, *but such fees shall not exceed the cost of the service provided&*

(4) Any person aggrieved by any ruling, order, or decision of such building inspector may appeal *using the procedures provided in Section 7 of this Act.* [to the circuit court and to the Court of Appeals.]

Section 65. A new section of KRS Chapter 198B is created to read as follows:

Any person who violates any provision of this Act, or of the Uniform State Building Code, or any directive or order issued pursuant thereto shall be fined not less than twenty-five dollars ($25) nor more than ten thousand dollars ($10,000). Each day the violation continues shall constitute a separate offense.

Section 66. KRS 17.065 is repealed.

Section 67. KRS 67.390 and 67.400 are repealed.

Section 68. Whereas it will be necessary to coordinate the implementation of certain procedures specified in this Act with the termination of other procedures found in existing law, the following sections of this Act shall take effect on the dates specified: Sections 15, 18, 21, 24 through 36, 39 through 62, October 1, 1976; Sections 63 and 67, August 31, 1977; Sections 16, 17, 19, 20, 22, 23, 37, 38 and 64, February 28, 1978.

The Committee Substitute for **HB 30** is as follows:

HB 30, AN ACT creating a department of buildings, housing and construction.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS Chapter 198B is established and a new section thereof is created to read as follows:

As used in this Act, unless otherwise provided:

(1) "Assembly occupancy" means the occupancy or use of a building or structure or any portion thereof by a gathering of persons for civic, political, travel, religious, social, or recreational purposes; including among others:

(a) Armories;
(b) Assembly halls;
(c) Auditoriums;

(d) Bowling alleys;
(e) Broadcasting studios;
(f) Chapels;
(g) Churches;
(h) Clubrooms;
(i) Community buildings;
(j) Courthouses;
(k) Dance halls;
(l) Exhibition rooms;
(m) Gymnasiums;
(n) Hotels;
(o) Lecture rooms;
(p) Lodge rooms;
(q) Motels;
(r) Motion picture theaters;
(s) Museums;
(t) Night clubs;
(u) Opera houses;
(v) Passenger stations;
(w) Pool rooms;
(x) Recreation areas;
(y) Restaurants;
(z) Skating rinks;
(aa) Television studios;
(bb) Theaters.

(2) "Attic" means the space between the ceiling beams of the top habitable story and the roof rafters.

(3) "Basement" means that portion of a building the average height of which is at least half below grade, which is ordinarily used for purposes such as storage, laundry facilities, household tool shops, and installation and operation of heating, cooling and ventilating facilities, but which is not ordinarily used for purposes of general household habitation.

(4) "Building" means any combination of materials, whether portable or fixed, which comprises a structure affording facilities or shelter for any human occupancy, whether infrequent or regular. The word "building" shall be construed wherever used herein as if followed by the words "or part or parts thereof and all equipment therein" unless the context clearly requires a different meaning. "Building" shall also mean swimming pools constructed below grade on site, but not swimming pools assembled above grade on site. "Building" shall not mean a mobile home, or a farm dwelling or other farm buildings and structures incident to the operation and maintenance of the farm if such farm structures are located outside the jurisdiction of a municipality and are not used in the business of retail trade or used as a place of regular employment for ten (10) or more people.

(5) "Business occupancy" means the occupancy or use of a building or structure or any portion thereof for the transaction of business, the rendering or receiving of professional services, or the displaying, selling or buying of goods, wares, or merchandise, or the housing of vehicles of transportation, except where occupancy is of high hazard; including among others:
(a) Banks;
(b) Barber shops;
(c) Beauty parlors;
(d) Department stores;
(e) Garages;
(f) Markets;
(g) Service stations;
(h) Offices;
(i) Stores;
(j) Radio stations;
(k) Telephone exchanges;
(l) Television stations.

(6) "Commissioner" means the commissioner of buildings, housing and construction.

(7) "Construction" means the erection, fabrication, reconstruction, alteration, repair or conversion of a building, or the installation of equipment therein.

(8) "Department" means the department of buildings, housing and construction.

(9) "Educational occupancy" means the occupancy or use of a building or structure or any portion thereof by persons assembled for the purpose of learning or of receiving education instruction; including

among others:

(a) Academies;
(b) Care centers;
(c) Colleges;
(d) Kindergartens;
(e) Libraries;
(f) Pre-schools;
(g) Relocable classroom unit;
(h) Schools;
(i) Seminaries;
(j) Universities.

(10) "Equipment" means facilities or installations, including but not limited to, heating, electrical, ventilating, air conditioning, and refrigerating facilities or installations.

(11) "High hazard occupancy" means the occupancy or use of a building or structure or any portion thereof that involves highly combustible, high flammable or explosive materials or which has inherent characteristics that constitute a special fire hazard; including among others:

(a) Aluminum powder factories;
(b) Charging or filling stations;
(c) Distilleries;
(d) Dry cleaning plants;
(e) Dry dyeing plants;
(f) Explosive-manufacture, sale or storage;
(g) Flour and feed mills;
(h) Gasoline bulk plants;
(i) Grain elevators;
(j) Lacquer factories;
(k) Liquefied petroleum gas;
(l) Mattress factories;
(m) Paint factories;
(n) Pyroxylin-factories, or warehouses;
(o) Rubber factories.

(12) "Industrial occupancy" means the occupancy or use of a building structure or any portion thereof for assembling, fabricating, finishing, manufacturing, packaging or processing operations, except for occupancies of high hazard; including among others:

(a) Assembly plants;
(b) Creameries;
(c) Electrical substations;
(d) Factories;
(e) Ice plants;
(f) Laboratories;
(g) Laundries;
(h) Manufacturing plants;
(i) Mills;
(j) Power plants;
(k) Processing plants;
(l) Pumping stations;
(m) Repair garages;
(n) Smokehouses;
(o) Workshops.

(13) "Industrialized building system" means any structure or component thereof which is wholly or in substantial part fabricated in an off-site manufacturing facility for installation or assembly on a permanent foundation at the building site.

(14) "Institutional occupancy" means the occupancy or use of a building or structure or any portion thereof by persons harbored or detained to receive medical, charitable or other care or treatment, or by persons involuntarily detained; including among others:

(a) Asylums;
(b) Homes for the aged;
(c) Hospitals;
(d) Houses of correction;
(e) Infirmaries;

(f) Jails;
(g) Nursing homes;
(h) Orphanages;
(i) Penal institutions;
(j) Reformatories;
(k) Sanitariums;
(l) Nurseries.

(15) "Mobile home" means mobile home as defined in KRS 227.550(1).

(16) "Story" means that part of a building comprised between a floor and the floor or roof next above which is not a basement or an attic.

Section 2. A new section of KRS Chapter 198B is created to read as follows:

(1) There is hereby created the Kentucky Board of Buildings, Housing and Construction within the Kentucky Department of Buildings, Housing and Construction comprised of fifteen members to include: one local government fire chief selected by the Governor from a list of three submitted by the Kentucky Firemen's Association; the executive director of the Kentucky Housing Corporation; the commissioner of the Bureau of Health Services, Department for Human Resources; the Attorney General or any assistant attorney general he may designate to represent the interests of consumers; one professional homebuilder selected by the Governor from a list of three submitted by the Home Builders Association of Kentucky; one registered architect selected by the Governor from a list of three submitted by the Kentucky Society of Architects; one registered structural engineer selected by the Governor from a list of three submitted by the Kentucky Society of Professional Engineers; one registered mechanical engineer selected by the Governor from a list of three submitted by the Kentucky Society of Professional Engineers; one registered electrical engineer selected by the Governor from a list of three submitted by the Kentucky Society of Professional Engineers; one citizen member selected by the Governor to represent the interests of low and moderate income housing consumers within the Commonwealth of Kentucky; one practicing general contractor selected by the Governor from a list of three submitted by the Kentucky Association of General Contractors; one practicing code administrator selected by the Governor from a list of three submitted by the Codes Administrators Association of Kentucky; one realtor selected by the Governor from a list of three submitted by the Kentucky Association of Realtors; one member selected by the Governor from a list of three submitted by the Kentucky State Building Trades Council; and one master plumber selected by the Governor from a list of three submitted by the Kentucky Association of Plumbing, Heating and Cooling Contractors.

(2) Nominations to the Board shall be made to the Governor by July 1, 1978. The Governor shall make appointments to the Board by July 31, 1978.

(3) Except for the Commissioner of the Bureau of Health Services, the executive director of the Kentucky Housing Corporation and the Attorney General or his designate who shall serve on the Board during the term of their existing office and shall be voting members, Board members shall be appointed for four year terms, except that initially four shall be appointed for two year terms, four shall be appointed for three year terms, and four shall be appointed for four year terms. No Board member shall be appointed for more than one successive term except as provided in Section 2(4) of this Act. The Governor shall, within the limitations of this subsection, set the length of term of each of the initial appointees to the Board.

(4) Vacancies occurring on the Board among those members appointed by the Governor shall be filled by seeking nominations as in Section 2(1) of this Act from the organization which originally nominated the member who is to be replaced. A replacement for a Board member shall be appointed immediately upon the expiration of the departing Board member's term of service. Should a Board member vacate his position on the Board prior to the expiration of his term, his replacement shall be appointed for the period of the unexpired term. Should the unexpired term be less than two years, the person selected to fill the unexpired term may subsequently be appointed to one successive four year term.

(5) Members may be removed from the Board by the Governor for unethical conduct or for failure to attend three or more successive meetings of the Board without reasonable cause.

(6) The Board shall meet at least quarterly, and the first meeting shall occur no later than August 31, 1978. Before assuming their duties, members of the Board shall take an oath as specified in Section 228 of the Constitution of Kentucky.

(7) The Board may elect from its members such officers as are required to conduct its business, except that neither the Commissioner of the Bureau of Health Services, the executive director of the Kentucky Housing Corporation nor the Attorney General or his designate shall be elected to office on the Board.

(8) The Board may adopt such rules, regulations and by-laws as are necessary to conduct its internal business.

(9) No member of the Board may vote on any matter which will result in his direct or indirect financial gain.

(10) Those members of the Board who are not salaried governmental employes shall be compensated for their time when attending Board meetings or attending to official duties as directed by the Board at the rate of fifty dollars per day. A Chairman appointed from the membership of the Board shall receive an additional twenty-five dollars per day when attending Board meetings or attending to official Board duties. All Board members shall be compensated for expenses incurred in the conduct of Board business.

Section 3. A new section of KRS Chapter 198B is created to read as follows:

(1) There is hereby created the Kentucky Department of Buildings, Housing and Construction within the cabinet for public protection and regulation. The Governor shall appoint a commissioner to head the department by July 1, 1978. The Commissioner shall receive for his services such compensation as the Governor shall determine. The Commissioner shall be selected by the Governor on the basis of demonstrated competence and experience in one or several professions relating to the building, housing and construction industries. Competence may be demonstrated by notable accomplishment in finance, engineering, architecture, law, land use planning, management and administration, construction contracting, real estate development, labor or similar professions related to the responsibilities of the Commissioner as contained in this Act.

(2) The Commissioner may employ sufficient staff to carry out the functions of his office. Neither the Commissioner nor any member of his staff shall be employed, either directly or indirectly, in any aspect of the building industry as regulated by this Act while employed by the Department of Buildings, Housing and Construction.

(3) The Department shall serve as staff for the Board of Buildings, Housing and Construction as established by this Act, and shall perform all budgeting, procurement, and other administrative activities necessary to the functioning of this body. The Board shall prescribe the duties of the Commissioner in addition to those duties otherwise delegated to him by the Governor or prescribed for him by law.

(4) The Department may enter into contracts with the Federal government, other agencies of state government or with its subdivisions, or with private profit or nonprofit organizations in order to effect the purposes of this Act.

(5) Subject to the direction of the Board of Buildings, Housing and Construction, the Commissioner shall cooperate with the agencies of the United States and with the governing bodies and housing authorities of counties, cities, and with not for profit organizations and area development districts in relation to matters set forth in this Act, and in any reasonable manner that may be necessary for the State to qualify for, and to receive grants or aid from such agencies. To these ends and subject to the direction of the Board, the Commissioner shall have the power to comply with each condition and execute such agreements as may be necessary, convenient, or desirable.

(6) Nothing in this Act shall preclude any other agency, board, or officer of the State from being designated as the directing or allocating agency, board, or officer for the distribution of Federal grants and aid, or the performance of other duties to the extent necessary to qualify for and to receive grants and aid for programs under the administration of the Department.

(7) The Commissioner is authorized to receive, for and on behalf of the State, the Department, and the Board of Buildings, Housing and Construction, from the United States and agencies thereof, and from any and all other sources, grants and aid and gifts made for the purpose of providing, or to assist in providing, any of the programs authorized by this Act, including expenses of administration. All such funds shall be paid into the State Treasury and credited to a trust and agency fund to be used by the Department in carrying out the provisions of this chapter. No part of this fund shall revert to the general fund of the Commonwealth.

Section 4. A new section of KRS Chapter 198B is created to read as follows:

The Kentucky Board of Buildings, Housing and Construction shall have the following general powers and duties:

(1) To conduct or cause to be conducted studies to determine the needs of the building industry of Kentucky;

(2) To conduct or cause to be conducted or participate in studies of the costs of the various factors of building construction and use of buildings, and to recommend programs and procedures which will minimize the cost of buildings, including the use of energy, while maintaining safety, durability and comfort;

(3) To administer regulatory legislation relating to buildings and construction;

(4) To assume administrative coordination of the various state construction review programs and to cooperate with various federal, state and local agencies in the programs as they relate to buildings and construction;

(5) To assume administration and coordination of various state housing programs to include:

(a) devising and implementing procedures for attaining and maintaining an accurate count of the housing inventory in Kentucky, including information on the age, physical condition, size, facilities and amenities of such housing, and housing constructed and demolished each year;

(b) designing programs coordinating the elements of housing finance, production, maintenance and rehabilitation for the purpose of assuring the availability of safe, adequate housing in a healthful environment for all Kentucky citizens;

(c) establishing or causing to be established public information and educational programs relating to housing, to include informing Kentucky citizens about housing and housing related programs that are available on all levels of government;

(d) designing and administering, or participating in the design and administration of educational programs to prepare low income families for home ownership, and counseling them during their early years as homeowners;

(e) promoting educational programs to assist sponsors in the development and management of low and moderate income housing for sale or rental;

(f) cooperating with various federal, state and local agencies in their programs as they relate to housing;

(g) conducting or causing to be conducted studies to determine the housing preferences of Kentucky citizens and the present and future housing requirements of the state;

(6) To recommend state building industry policies and goals to the Kentucky General Assembly;

(7) To adopt and promulgate a mandatory uniform state building code, and parts thereof, which shall establish standards for the construction of all buildings, as defined in Section 1 of this Act, in the state;

(8) To issue regulations providing for the proper construction of public water purification plants, other than the water treatment equipment in such plants;

(9) To issue regulations providing for the proper construction of sewage treatment plants, other than the sewage treatment equipment in such plants.

Section 5. A new section of KRS Chapter 198B is created to read as follows:

(1) Within one year from its initial meeting, after adequate notice in accordance with KRS Chapter 13, the Board shall adopt and promulgate a mandatory uniform state building code which shall establish standards for the construction of all buildings, as defined in Section 1 of this Act, in the state. The code shall provide that the review and approval, as necessary, of building plans for conformance with the uniform state building code prior to construction approval shall be conducted only by the Department or a local government or governments delegated such responsibilities by this chapter, and any exceptions to this policy shall be explicitly stated in the code.

(2) The code shall be comprehensive and shall include but not be limited to provisions for general construction; structural quality; mechanical systems to include heating, cooling, and ventilation; electrical systems; and life safety from hazards of fire, explosion, and other disasters, whether caused by acts of nature or man. The code shall encompass the Kentucky state plumbing code promulgated pursuant to KRS 318.130, boiler rules and regulations issued pursuant to KRS 236.030, and the national electrical code.

(3) This code shall be designed after and may be selected from the models offered by such model code agencies as the Building Officials and Code Administrators, International, Inc.; The International Conference of Building Officials; the Southern Building Code Congress; and other nationally recognized organizations which may include governmental agencies. The code shall:

(a) provide uniform standards and requirements for construction and construction materials;

(b) to the extent practicable, set forth standards, specifications and requirements in terms of performance objectives, so as to facilitate the use of new technologies, techniques, and materials. The code shall not discriminate in favor of particular suppliers materials, techniques, or technologies;

(c) protect the public health, safety, and welfare within the state.

(4) Adoption of a code shall include provisions for the continuing review of, and the Board shall adopt when deemed justified to fulfill the purposes of this Act, new materials, technologies, and techniques in the building industry. The Board may adopt a model code promulgated by a model code agency only if that agency provides a method for democratic participation by the Board and any local governments which may enforce the code, in a continuing review and possible adoption of new materials, technologies, and techniques in the building industry.

(5) The Board shall issue regulations, after notice in accordance with KRS Chapter 13, which are necessary to implement the uniform state building code or to carry out any other responsibility assigned to said Board by this Act.

(6) The Board shall provide for monitoring the effectiveness of agencies designated by local governments to enforce the provisions of the uniform state building code.

(7) The Board shall provide for the supply, including amendments and revisions thereto, of sufficient copies of the uniform state building code for all interested parties.

Section 6. A new section of KRS Chapter 198B is created to read as follows:

(1) Each local government in the state of Kentucky shall employ a building official or inspector and other code enforcement personnel as necessary, or shall contract for such services in accordance with Section

6(8) of this Act to enforce the uniform state building code within the boundaries of its jurisdiction, and shall neither adopt nor enforce any other ordinance regulating buildings which conflicts with the uniform state building code, except that a building code adopted by a local government prior to passage of this Act may continue in effect until such time as the uniform state building code becomes mandatory within that local government jurisdiction.

(2) Local governments shall be responsible for the examination and approval or disapproval of plans and specifications for buildings of no more than three stories in height, exclusive of attic and basement, which do not contain more than 20,000 square feet of floor area, and are not intended for assembly, educational, institutional or high hazard occupancy, business or industrial occupancy in excess of 100 persons, or for use as a frozen food locker plant as defined in KRS 221.010. Local governments shall be responsible for the issuance and revocation of building permits, licenses, certificates and similar documents which cover activities within their area of responsibility, and the inspection of all buildings pursuant to the provisions of this Act and the uniform state building code. Each local government issuing a building or demolition permit or an initial certificate of occupancy on a new structure shall send a copy of such permit or certificate to the commissioner for his use in maintaining an accurate housing inventory for Kentucky.

(3) Urban county governments may determine service districts within their boundaries within which farm dwellings and other farm buildings, not used in the business of retail trade or as a place of regular employment for ten (10) or more people, shall be exempt from the requirements of the uniform state building code. Such determination may be reviewed and altered by the board.

(4) The department shall be responsible for the examination and approval or disapproval of plans and specifications for all buildings which are not the responsibility of local governments. The department may issue and revoke permits, licenses, certificates and similar documents within its area of responsibility, and shall have concurrent jurisdiction with local governments for the inspection of all buildings pursuant to the provisions of this chapter and the uniform state building code. The department may preempt any portion of a local program if the commissioner determines that the local jurisdiction is not adequately performing that portion of the program. If the department preempts any portion of a local program, it shall collect the fees applicable to that portion of the program.

(5) Any local government may petition the commissioner requesting that additional plan review functions be allocated to that local government. Such petition shall include evidence of the local government's capability to perform additional plan review functions. The commissioner, after review of the petition and supporting evidence, may grant or deny to the local government any part of a request for additional responsibility. If the commissioner denies any part of a petition, he shall explain his reasons for denial in writing, and provide a copy to the board and the local government. A local government may appeal such denial directly to the board, and the board shall review such appeal according to the procedures found in Sections 7(8) through 7(12) of this Act. Should the local government be granted additional responsibility by the commissioner or the board, the department shall hold concurrent jurisdiction over such additional responsibility, but the local government shall collect any fees for functions it performs pursuant to such additional responsibility.

(6) The commissioner shall expedite the review of plans and specifications by assigning responsibilities and coordinating review activities among the department's various functional offices so as to prevent unnecessary duplication in the review of plans and specifications.

(7) No building shall be constructed in this state until a local building official with appropriate jurisdiction over said building, or an official representing the department, issues a permit for such construction. The local building official or the representative of the department shall issue a permit if the proposed building satisfies the requirements of the uniform state building code and if the party desiring to construct the building has complied with all other legal requirements concerning the location and construction of said building. The applicant for a building permit, by the act of applying for the permit, is deemed to have consented to inspection, by the local government or the department, of such building during construction and upon the completion of construction for the purpose of determining that such building is constructed in compliance with the uniform state building code. This section shall apply to industrialized building systems but destructive disassembly of industrialized building systems which carry a seal of approval pursuant to a manufactured building law in the state in which they were manufactured, which seal of approval is accepted by the Board of Buildings, Housing and Construction, shall not be performed in order to conduct such tests or inspections.

(8) No building on which construction was begun nor any industrialized building system on which site preparation and assembly were begun after the uniform state building code became effective shall be occupied until the local building official or a representative of the department issues a certificate of occupancy certifying that the building was constructed in conformance with the standards of the uniform state building code, or assembled or installed in conformance with applicable instructions.

(9) A local government may contract with other local governments, and may seek the technical assistance of other agencies in order to provide for the local enforcement of the uniform state building code. Such contracts among local governments shall conform to the provisions of KRS Chapter 65.

(10) Each local government and the department may establish a schedule of fees for the functions performed under the provisions of this Act. Such fees shall be designed to fully cover the cost of the service performed but shall in no case exceed the cost of the service performed. Fees payable to the department shall be paid into the state treasury and credited to a trust and agency fund to be used by the department in carrying out the provisions of this chapter. No part of this fund shall revert to the general fund of the Commonwealth.

Section 7. A new section of KRS Chapter 198B is created to read as follows:

(1) The Mayor, Chairman of the Board of Trustees, or County Judge of a local government which is enforcing the uniform state building code may, upon the approval of the local legislative body, appoint a local appeals board, consisting of at least three technically qualified persons with professional experience related to the building industry, to hear appeals from the decisions of the local building official.

(2) Local governments which are enforcing the uniform state building code may cooperate with each other to provide a local appeals board and shall adhere to the provisions of KRS Chapter 65 when entering such cooperative agreements. No local building official or employe of a local inspection department may sit on a local appeals board if such board is hearing an appeal to a decision rendered by his department. No member of a local appeals board shall hear an appeal in a case in which he has a private interest.

(3) Any party to a decision by the local building official may appeal that decision to the local appeals board. Upon receipt of an appeal from a qualified party, the local appeals board shall convene a hearing to consider the appeal within fifteen days of receipt. All parties to the appeal shall be notified of the time and place of the hearing by letter mailed by registered or certified mail no later than ten days prior to the date of the hearing. The local appeals board shall render a decision within five working days after the hearing.

(4) A local appeals board may uphold, amend, or reverse the decision of a local building official, and there shall be no appeal from the decision of a local appeals board except that any party to such decision may appeal to the Board of Buildings, Housing and Construction. Appeals to the Board of Buildings, Housing and Construction shall include citations of those provisions of the uniform state building code which are at issue, and an explanation of why the decision of the local appeals board or the local building official relative to those provisions is being contested.

(5) The Board of Buildings, Housing and Construction shall serve to hear appeals from the decisions of local appeals boards, when such boards exist, or to hear appeals directly from the decisions of local building officials in cases where no local appeals board has jurisdiction. In no case shall the Board hear an appeal directly from a party aggrieved by the decision of a local building official when there is a local appeals board with jurisdiction in the case.

(6) The board shall hear appeals directly from a party aggrieved by the decision of an agent of the department. Such appeals shall include citations of those provisions of the uniform state building code which are at issue, and an explanation of why the decision of the agent of the department relative to those provisions is being contested.

(7) Appeals to the Board of Buildings, Housing and Construction shall be addressed to the Commissioner who shall immediately notify the Chairman of the Board when an appeal is received. The Commissioner or a designated employe of his department shall then investigate the evidence pertaining to such appeal and, based upon the results of such investigation, make recommendations to the Board on the disposition of the case in question. No employe of the department shall investigate or make recommendations on an appeal to his own decision, but shall defer in such cases to employes who were not party to the decision which led to the appeal. In conducting such investigation, the Commissioner or his designated representatives, acting for the department, shall have the authority to administer oaths and affirmations, issue subpoenas authorized by law, rule upon offers of proof and receive relevant evidence, take or cause depositions to be taken, regulate the course of any hearings they may schedule, and hold conferences for the settlement or simplification of the issues by consent of the parties. The Commissioner shall complete such investigations and forward written recommendations to the Chairman of the Board within thirty days after receiving an appeal.

(8) Upon receiving the written recommendations of the Commissioner, the Board may decide to accept such recommendations, or it may decide to convene a hearing to consider the question further. Upon receipt of the recommendations of the Commissioner, the Board shall render a decision on each appeal at its next regularly scheduled meeting, but no later than thirty days after receipt of such recommendations.

(9) Should the Board's decision be to schedule a hearing on the appeal, such hearing shall occur within thirty days of such decision, and all parties to such hearing shall be immediately notified in writing of the time and place of such hearing by the Commissioner.

(10) The Board may appoint five or more of its members to consider the recommendations of the Commissioner or to conduct the hearing, and those so appointed shall act in all matters concerning the appeal for the entire Board.

(11) In considering an appeal, the Board, if they deem it necessary to reach an equitable decision, may exercise any of the powers granted to the Commissioner in Section 7(7) of this Act. The Board shall render a decision within ten days of any appeals hearing it may conduct.

(12) The Board may uphold, amend, or reverse the decision of a local appeals board, a local building official or an agent of the department; and the decision of the Board shall be final, and there shall be no appeal from the Board's decision, except to the Franklin Circuit Court.

Section 8. A new section of KRS Chapter 198B is created to read as follows:

(1) Any interested party may suggest amendments to the uniform state building code to the Department of Buildings, Housing and Construction. The department shall transmit all suggested amendments to the Board with recommendations on the advisability of the suggested amendments.

(2) The Board may amend the uniform state building code at any time, but only after notice in accordance with KRS Chapter 13. Such amendments shall be effective statewide.

(3) No amendment shall violate the performance orientation of the code, favor certain materials or suppliers, or weaken the life safety features of the uniform state building code as specified in Section 5(3) of this Act.

Section 9. A new section of KRS Chapter 198B is created to read as follows:

(1) The department may conduct or sponsor pre-entry and in-service education and training programs on the technical, legal, and administrative aspects of building code administration and enforcement. For this purpose it may cooperate and contract with educational institutions, area development districts, local, regional, state or national building officials' organizations, and any other appropriate organization.

(2) The department may reimburse building officials, code enforcement officers and other employes of the state and its subdivisions for related expenses incurred by them for attendance at in-service training programs approved by the department.

Section 10. A new section of KRS Chapter 198B is created to read as follows:

Unless explicitly stated, exemption of mobile homes from the provisions of this Act is not intended to exempt them from provisions of existing law regulating them for the purposes of health, safety and welfare.

Section 11. A new section of KRS Chapter 198B is created to read as follows:

(1) In all local governments in a county containing a city of the first or second class, and in urban county governments, the uniform state building code shall become effective six months after promulgation by the Board. Any of said local governments may adopt the code prior to that time.

(2) In all local governments in a county containing a city of the third or fourth class, but not a city of the first or second class, the uniform state building code, as it pertains to buildings for which the department has the responsibility for plan reviews, shall become effective six months after promulgation by the Board and as it pertains to buildings for which local governments have responsibility for plan review shall become effective two years after promulgation by the Board. Any of said local governments may adopt the code prior to such times.

(3) In all local governments in a county containing a city of the fifth or sixth class, but not a city of the first through fourth classes, the uniform state building code as it pertains to buildings for which the department has the responsibility for plan reviews shall become effective six months after promulgation by the Board and as it pertains to buildings for which local governments have responsibility for plan review shall become effective three years after promulgation by the Board. Any of said governments may adopt the code prior to such times.

(4) A building for which a permit was legally granted prior to the effective date of the uniform state building code may be constructed and occupied under the provisions of relevant regulations in force at the time the permit was issued.

(5) A building for which plans were prepared at least three months prior to the effective date of the uniform state building code and upon which construction was begun prior to the effective date of the uniform state building code in a locality not then requiring a building permit may be completed and occupied without a building permit.

Section 12. A new section of KRS Chapter 198B is created to read as follows:

The department or any local government agency enforcing the uniform state building code may obtain injunctive relief from any court of competent jurisdiction to enjoin the offering for sale, delivery, use, occupancy or construction of any building on which construction was begun after the effective date of said code, upon an affidavit of the department or the local government agency specifying the manner in which the construction, or if a building existing prior to the effective date of said code, the reconstruction, alteration, repair or conversion does not conform to the requirements of this Act or the uniform state building code.

Section 13. A new section of KRS Chapter 198B is created to read as follows:

(1) Notwithstanding any other remedies available, any person or party, in an individual capacity or on behalf of a class of persons or parties, damaged as a result of a violation of this Act or the uniform state building code, has a cause of action in any court of competent jurisdiction against the person or party who committed the violation. An award may include damages and the cost of litigation, including reasonable attorney's fees.

Section 14. A new section of KRS Chapter 198B is created to read as follows:

No person shall hinder an inspector enforcing any of the provisions of this Act in the performance of his lawful duties under this Act.

Section 15. KRS 12.020 is amended to read as follows:

Departments, Program Cabinets (and their Departments) and the respective major administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-inclusive. Every authority, board, bureau, interstate compact, commission, committee, conference, council, office or any other form of organization shall be included in or attached to the department or program cabinet in which they are included or to which they are attached by statute or executive order.

I. Departments headed by elected officers.
1. The Governor.
2. Lieutenant Governor.
3. Department of State.
(a) Board of Elections.
4. Department of Law.
(a) Consumers Advisory Council.
5. Department of the Treasury.
6. Department of Agriculture.
(a) State Board of Agriculture.
(b) Milk Marketing and Antimonopoly Commission.
7. Department of Education.
(a) State Board of Education.
(b) State Textbook Commission.
8. Auditor of Public Accounts.
9. Railroad Commission.
II. Cabinet Departments headed by appointed officers:
1. Executive Department for Finance and Administration.
(a) State Property and Buildings Commission.
(b) Turnpike Authority of Kentucky.
(c) Capitol Plaza Authority.
[(d) Kentucky Housing Corporation.]
(d) [(e)] Kentucky Pollution Abatement Authority.
(e) [(f)] Kentucky Health and Geriatric Authority.
(f) [(g)] Kentucky Savings Bond Authority.
(g) [(h)] County Debt Commission.
2. Department of Transportation.
(a) Railroad Commission.
(b) Motor Vehicle Dealers Board.
3. Department for Natural Resources and Environmental Protection.
(a) Environmental Quality Commission.
(b) Soil and Water Conservation Commission.
(c) Ohio River Sanitation Commission.
4. Department of Justice.
(a) Kentucky Crime Commission.
(b) Parole Board.
(c) Kentucky Law Enforcement Council.
(d) Judicial Training Council.
(e) Commission on Corrections and Community Service.
(f) State Police Personnel Board.
5. Department for Human Resources.
(a) Citizens Commission for Human Resources.
(b) Advisory Council for Medical Assistance.

(c) Unemployment Insurance Commission.
(d) Certificate of Need and Licensure Board.
(e) Generic Formulary Council.
Cabinet for Development.
Department of Agriculture (headed by elected officer).
6. Department of Commerce.
(a) Economic Development Commission.
(b) Kentucky Industrial Development Finance Authority.
(c) Kentucky Science and Technology Commission.
7. Department of Fish and Wildlife Resources.
(a) Fish and Wildlife Resources Commission.
8. Department of Parks.
(a) Breaks Interstate Park Commission.
9. Kentucky Historical Events Celebration Commission.
10. State Fair Board.
11. Kentucky Geological Survey.
Cabinet for Education and the Arts.
12. Kentucky Arts Commission.
Department of Education (headed by elected officer).
13. Kentucky Authority for Educational Television.
14. Kentucky Heritage Commission.
15. Kentucky Historical Society.
16. Department of Library and Archives.
(a) State Archives and Records Commission.
(b) State Board for Certification of Librarians.
17. Advisory Council for Vocational Education and Manpower Development and Training.
Cabinet for Public Protection and Regulation.
18. Department for Alcoholic Beverage Control.
(a) Alcoholic Beverage Control Board.
19. Department of Banking and Securities.
20. Department of Insurance.
(a) Custodian of Insurance Securities.
21. Department of Labor.
(a) Workmen's Compensation Board.
(b) Board of Claims.
(c) Occupational Safety and Health Standards Board.
22. Department of Mines and Minerals.
23. Kentucky Registry of Election Finance.
24. Public Service Commission.
25. Kentucky Quarterhorse and Appaloosa Commission.
26. Kentucky State Racing Commission.
27. Kentucky Trotting Commission.
28. Kentucky Board of Tax Appeals.
29. Department of Buildings, Housing and Constructions.
(a) Kentucky Housing Corporation.
III. Other Departments headed by appointed officers;
1. Department of Military Affairs.
2. Department of Personnel.
(a) Personnel Board.
3. Department of Public Information.
4. Department of Revenue.
5. Human Rights Commission.
6. Council on Public Higher Education.
7. Teachers' Retirement System.
8. Kentucky Employees' Retirement System.
9. Commission on Women.
10. Kentucky Tobacco Research Board.

Section 16. KRS 156.160 is amended to read as follows:

Upon recommendation of the superintendent of public instruction, the state board of education shall adopt rules and regulations relating to:

(1) The biennial state school budget;

(2) Minimum courses of study for the different grades and kinds of common schools, and regulations governing educational equipment of the schools;

(3) Grading, classifying and accrediting all common schools, and for determining the scope of instruction that may be offered in the different classes of schools, and the minimum requirements for graduation from the courses offered;

(4) Taking, and keeping a school census, and the forms and blanks to be used in taking and keeping the census and in compiling the required reports;

(5) Sanitary and protective construction of public school buildings, toilets, physical equipment of school grounds, school buildings and classrooms. *With respect to physical standards of sanitary and protective construction for school buildings, the state board shall adopt the uniform state building code*;

(6) Medical inspection, physical education and recreation, and other rules and regulations deemed necessary or advisable for the protection of the physical welfare and safety of the public school children;

(7) The transportation of children to and from school;

(8) Approval of private and parochial schools of elementary or high school grade, and commercial schools;

(9) The fixing of holidays on which schools may be closed and special days to be observed, and the pay of teachers during absence because of sickness or quarantine or when the schools are closed because of quarantine;

(10) The preparation of budgets and salary schedules for the several school districts under the management and control of the state board of education;

(11) A uniform series of forms and blanks, educational and financial, including forms of contracts, for use in the several school districts;

(12) The disposal of real and personal property owned by local boards of education.

Section 17. KRS 162.060 is amended to read as follows:

The superintendent of public instruction shall be furnished a copy of all plans and specifications for new public school buildings contemplated by boards of education and for all additions to or alterations of old buildings. He shall examine or cause to be examined all such plans and specifications and shall approve or disapprove them in accordance with the rules and regulations of the state board of education. *Plan reviews for conformance with the uniform state building code shall be conducted only by the department of buildings, housing and construction.* No board of education may award a contract for the erection of a new building or contract for an addition to or alteration of an old building until the plan has been approved by the superintendent of public instruction.

Section 18. KRS 211.180 is amended to read as follows:

The department shall enforce the rules and regulations adopted by the secretary for human resources for the regulation and control of the matters set out below and shall formulate, promote, establish and execute policies, plans and programs relating to all matters of public health, including but not limited to the following matters:

(1) Detection, prevention, and control of communicable diseases, chronic and degenerative diseases, dental diseases and abnormalities, occupational diseases and health hazards peculiar to industry, home accidents and health hazards, animal diseases which are transmissible to man, and such other diseases and health hazards as may be controlled;

(2) The control of insects, rodents and other vectors of disease; the proper disposal of garbage, waste and other refuse; [the safe installation and operation of plumbing and plumbing fixtures;] the safe handling of food and food products; the safety of cosmetics; the control of narcotics, barbiturates and other drugs as provided by law; the purification of water for public and semipublic use; the proper construction and operation of *water treatment equipment in* public water purification plants and distribution systems, swimming pools; the sanitation of schools, industrial establishments and other public and semipublic buildings; the sanitation of state and county fairs and other similar public gatherings; the sanitation of public and semipublic recreational areas; the sanitation of public rest rooms, trailer courts, hotels, tourist courts, and other establishments furnishing public sleeping accommodations; the review, approval or disapproval of plans for construction, modification or extension of *equipment related to food-handling in* food-handling establishments, *water treatment equipment in* water purification and distribution systems *and*[,] swimming pools, and such other establishments, systems, plants and places as are designated by the secretary for human resources; the licensure of hospitals; and the control of such other factors as may be necessary to insure a safe and sanitary environment;

(3) Protection and improvement of the health of expectant mothers, infants, preschool and school age children;

(4) The practice of midwifery, including the issuance of permits to and supervision of women who practice midwifery;

(5) Protection and improvement of the health of the people through better nutrition.

Section 19. KRS 216.425 is amended to read as follows:

(1) There is hereby created the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board consisting of sixteen members, to be appointed by the governor, for the purpose of carrying out KRS 216.405 to 216.485. The board shall be appointed as follows: two members from the Kentucky Hospital Association, two members from the Kentucky Medical Association, two members from the Kentucky Nursing Home Association, one member from the Kentucky Nurses Association, one member from the Kentucky Dental Association, one member from the Kentucky Pharmaceutical Association, and four members who are consumers with an interest in education, rehabilitation, mental health, home care programs, or ambulatory care services and three members who are consumers not associated with any health facilities or delivery of health services. The aforesaid associations shall nominate three persons for each appointment to be made. The comprehensive health planning council shall nominate three persons for each of the consumer positions. The governor shall appoint a chairman from the consumer members of the board. Members of the board shall serve for a term of four years, except that the first appointments shall be made as follows: three for a term of one year; four, a term of two years; four, a term of three years; and four, a term of four years. In event of a vacancy the person appointed shall serve only for the remaining portion of the vacated term. All members shall serve until such time as their successors are qualified and appointed. The secretary for human resources shall serve in an advisory capacity to the board.

(2) Board members shall be reimbursed for allowable expenses for each day spent in active board duty.

(3) The board shall have authority to promulgate administrative regulations, to be filed with the Legislative Research Commission as provided in KRS chapter 13 and do any other acts necessary to administer KRS 216.405 to 216.485.

(4) The board shall have three separate and distinct functions:

(a) To issue certificates of need in accordance with the provisions of KRS 216.405 to 216.485.

(b) To issue licenses, regulate and inspect health facilities and health services. *Any construction code standards which may be promulgated by regulations shall conform to the uniform state building code, and plan reviews for conformance with such code prior to construction shall be conducted only by the department of buildings, housing and construction. These provisions shall not limit the board from conducting other necessary reviews prior to approval for construction.*

(c) To enforce, through legal actions on its own motion, the provisions of such certificates, licenses and regulations.

(5) The board shall develop, establish, enforce and may repeal standards, rules and regulations for the care, health, safety, welfare, and comfort of patients in health facilities and health services covered by KRS 216.405 to 216.485 and for the maintenance and operation of health facilities and health services which shall be designed to insure that the quality of care offered by the facility or service is satisfactory and that the facility or service receives a license appropriate to its function. This shall include but not be limited to the classification and categorization of health facilities and health services according to character, size, range of services provided, type and level of care required. Further, the board shall develop and enforce standards relative to each classification or category of health facilities and health services which must be met in order to receive a license to operate and maintain health facilities and health services.

(6) The board shall adopt, establish and enforce criteria and procedures as developed by the state health planning council for determining the need for construction, expansion or implementation of health facilities and services.

(7) Members of the board, or its representatives, are hereby authorized to enter upon the premises of any health facility or health service as covered by KRS 216.405 to 216.485, for the purpose of inspection, at any reasonable time.

(8) The composition of the board and the rules and regulations thereof shall conform to any federal law or regulations pertaining to the licensing of health facilities.

(9) The board may appoint such technical advisory committees as are deemed necessary to administer the provisions of KRS 216.405 to 216.485.

(10) The board may, by regulation, prescribe and collect reasonable fees and charges for processing applications for certificate of need and licensure. All fees and charges collected under the provisions of KRS 216.405 to 216.485 shall be paid to the state treasurer and credited to a trust and agency account to be used in the administration of KRS 216.405 to 216.485.

(11) The board shall coordinate the requirements of all other state agencies which may have regulatory power over health facilities and health services covered by KRS 216.405 to 216.485 in such manner that the applicant is assured of having met the requirements of the other agencies when issued a license by this board.

Section 20. KRS 219.041 is amended to read as follows:

(1) The secretary shall adopt rules and regulations for the effective administration and enforcement of KRS 219.011 to 219.081.

(2) The secretary shall adopt a state food service code which shall include, among other things, provisions for regulating the issuance, suspension, and revocation of permits to operate; submission of plans for construction and equipment layout including plumbing, lighting, ventilation, water supply, sewage disposal and other facilities; food supply source and protection; health, disease control and cleanliness of personnel; design, construction, installation and cleanliness of equipment and utensils; toilet and hand washing facilities; solid waste disposal and vermin control; and such other matters deemed necessary to insure a safe and sanitary operation of a food service establishment. *Standards for construction, plumbing, lighting and ventilation of fixed food service establishments shall be effective only if they are approved by the board of buildings, housing and construction and are included in the uniform state building code, or if they conform to the state plumbing code in the case of plumbing fixtures. Any review of plans for construction, plumbing, lighting and ventilation required before construction of a fixed food service establishment shall be conducted by the department of buildings, housing and construction.*

(3) The secretary shall adopt a state hotel code which shall include, among other things, requirements for the issuance, suspension and revocation of permits to operate; submission of plans for construction and equipment layout; plumbing; lighting; ventilation; water supply; sewage disposal; sanitary standards for operation; and such other matters deemed necessary to insure a safe and sanitary operation of a hotel. *Standards for construction, plumbing, lighting and ventilation shall be effective only if they are approved by the board of buildings, housing and construction and are included in the uniform state building code, or if they conform to the state plumbing code in the case of plumbing fixtures. Any review of plans for construction, plumbing, lighting and ventilation required before construction of a hotel shall be conducted by the department of buildings, housing and construction.*

Section 21. KRS 219.051 is amended to read as follows:

The state fire marshal or his duly authorized agents or representatives shall administer and enforce all state fire regulations, laws, standards of safety and rules and regulations adopted by the *commissioner of buildings, housing and construction* [secretary of justice] relating to hotels and food service establishments.

Section 22. KRS 221.030 is amended to read as follows:

(1) The department, through its secretary or his authorized agents, shall have the authority of supervising and enforcing the provisions of KRS 221.010 to 221.100.

(2) The secretary may prescribe and enforce such rules and regulations and to make such definitions, and prescribe such procedure with regard to hearings, as he may deem necessary to carry into effect the full intent and meaning of KRS 221.010 to 221.100. *Construction standards for buildings used as frozen food locker plants shall be effective only if approved by the board of housing, buildings and construction and included in the uniform state building code. Any construction plan reviews for such buildings required prior to approval for construction shall be conducted by the department of buildings, housing and construction.*

(3) In any proceeding under KRS 221.010 to 221.100 the secretary may administer oaths and issue subpoenas, summon witnesses and take testimony of any person within the commonwealth of Kentucky.

Section 23. KRS 221.070 is amended to read as follows:

The secretary shall cause to be made periodically a thorough inspection of each establishment licensed under KRS 221.010 to 221.100 to determine whether or not the premises are [constructed,] equipped and operated in accordance with the requirements of KRS 221.010 to 221.100 and of all other laws of this state applicable to the operation either of refrigerated lockers or of the handling of human food in connection therewith, and of all regulations effective under KRS 221.010 to 221.100 relative to such operation. Such inspection shall also be made of each vehicle used by the operator of refrigerated lockers or of an establishment, handling human food in connection therewith, when such vehicle is used in transporting or distributing human food products to or from refrigerated lockers within this state.

Section 24. KRS 224.033 is amended to read as follows:

In addition to any other powers and duties vested in it by law, the department shall have the authority, power, and duty to:

(1) Exercise general supervision of the administration and enforcement of Acts 1972 (1st Ex. Sess.), ch. 3, and all rules, regulations and orders promulgated thereunder;

(2) Prepare and develop a comprehensive plan or plans related to the environment of the commonwealth;

(3) Encourage industrial, commercial, residential and community development which provides the best usage of land areas, maximizes environmental benefits and minimizes the effects of less desirable environmental conditions;

(4) Develop and conduct a comprehensive program for the management of water, land, and air resources to assure their protection and balance utilization consistent with the environmental policy of the commonwealth;

(5) Provide for the prevention, abatement, and control of all water, land, and air pollution including but not limited to that related to particulates, pesticides, gases, dust, vapors, noise, radiation, odor, nutrients, heated liquid, or other contaminants;

(6) Provide for the control and regulation of strip mining and reclamation in a manner to accomplish the purposes of KRS chapter 350;

(7) Secure necessary scientific, technical, administrative, and operational services, including laboratory facilities, by contract or otherwise;

(8) Collect and disseminate information and conduct educational and training programs relating to the protection of the environment;

(9) Appear and participate in proceedings before any federal regulatory agency involving or affecting the purposes of the department;

(10) Enter and inspect any property or premises for the purpose of investigating either actual or suspected sources of pollution or contamination or for the purpose of ascertaining compliance or noncompliance with Acts 1972 (1st Ex. Sess.), ch. 3, or any rule or regulation which may be promulgated thereunder;

(11) Conduct investigations and hold hearings and compel the attendance of witnesses and the production of accounts, books and records by the issuance of subpoenas;

(12) Accept, receive, and administer grants or other funds or gifts from public and private agencies including the federal government for the purpose of carrying out any of the functions of the department. Such funds received by the department shall be deposited in the state treasury to the account of the department;

(13) Request and receive the assistance of any state or municipal educational institution, experiment station, laboratory, or other agency when it is deemed necessary or beneficial by the department in the performance of its duties.

(14) Advise, consult, and cooperate with other agencies of the commonwealth, other states, the federal government, and interstate and interlocal agencies, and affected persons, groups and industries;

(15) Formulate guides for measuring presently unidentified environmental values and relationships so they can be given appropriate consideration along with social, economic, and technical considerations in decision making;

(16) Monitor the environment to afford more effective and efficient control practices, to identify changes and conditions in ecological systems and to warn of emergency conditions;

(17) Adopt, modify or repeal with the recommendation of the commission any standard, rule, regulation or plan specified in subsections (5) and (6) of KRS 224.045.

(18) Issue, after hearing, orders abating activities in violation of this chapter, or the provisions of Acts 1972 (1st Ex. Sess.), ch. 3, or the regulations promulgated pursuant thereto and requiring the adoption of such remedial measures as the department may deem necessary;

(19) Issue, continue in effect, revoke, modify, suspend or deny under such conditions as the department may prescribe, permits to discharge into any waters of the commonwealth, and for the installation, alteration, expansion, or operation *of sewage treatment equipment* of any sewage system; the installation, alteration, or use of any machine, equipment, device or other article that may cause or contribute to air pollution or is intended primarily to prevent or control the emission of air pollution; or the establishment or construction and the operation or maintenance of solid waste disposal sites and facilities; and require that applications for such permits be accompanied by plans, specifications, and such other information as the department deems necessary;

(20) May establish, by regulation, a fee or schedule of fees for the cost of processing applications for permits authorized by this chapter, and for the cost of processing applications for exemptions or partial exemptions which may include but not be limited to the administrative costs of a hearing held as a result of such exemption application, except that applicants for existing or proposed publicly owned facilities shall be exempt from any such charge;

(21) May require for persons discharging into the waters of the commonwealth, by regulation, order or permit, technological levels of treatment and effluent limitations;

(22) Require, by regulation, that any person engaged in any operation regulated pursuant to this chapter install, maintain, and use at such locations and intervals as the department may prescribe any equipment, device or test and the methodologies and procedures for the use of such equipment, device or test to monitor the nature and amount of any substance emitted or discharged into the ambient air or waters of the commonwealth and to provide any information concerning such monitoring to the department in accordance with the provisions of subsection (23) of this section;

(23) Require by regulation that any person engaged in any operation regulated pursuant to this chapter file with the department reports containing information as to location, size, height, rate of emission or discharge, and composition of any substance discharged or emitted into the ambient air or into the waters of the commonwealth, and such other information as the department may require; and

(24) Perform such other and further acts as may be necessary to carry out the duties and responsibilities herein described.

Section 25. KRS 234.100 is amended to read as follows:

(1) As used in KRS 234.100 to 234.160 and 234.990 the term "liquefied petroleum gas" means and includes any material which is composed predominantly of any of the following hydrocarbons, or mixtures of them, whether in the liquid or in the gaseous states: propane, propylene, butane (normal butane or isobutane), and butylene.

(2) *"Commissioner"* ["Secretary"] means *the commissioner* [secretary] of *buildings, housing and construction* [justice].

Section 26. KRS 234.120 is amended to read as follows:

(1) Subject to the exceptions provided in subsection (2), no person shall engage in any of the businesses set out herein without first having obtained from the *commissioner* [secretary] the required license or licenses and paid the prescribed fee therefor:

(a) Selling, to the ultimate consumer or user, of liquefied petroleum gas, of liquefied petroleum gas containers, or of liquefied petroleum gas regulating equipment for use with liquefied petroleum gas, $50.00;

(b) Assembling, repairing, installing or connecting of liquefied petroleum gas containers, or regulating equipment, or liquefied petroleum gas appliances, or any liquefied petroleum gas utilization equipment, or the filling of I.C.C. liquefied petroleum gas containers of less than one hundred (100) pounds capacity, $25.00;

(c) Selling or delivering liquefied petroleum gas in prefilled containers (this does not authorize the filling of containers or delivery by tank truck), $50.00;

(d) The selling of liquefied petroleum gas for use in motor vehicles, as a motor fuel, from storage containers, dispensing devices, and pertinent equipment, $25.00;

(e) Engaging in all the businesses set out in paragraphs (a), (b), (c), and (d), and having not more than five hundred (500) customers (this license shall be in lieu of the four (4) individual licenses required by paragraphs (a), (b), (c), and (d)), $50.00;

(f) Engaging in all the businesses set out in paragraphs (a), (b), (c) and (d) and having more than five hundred (500) customers (this license shall be in lieu of all other licenses), $100;

(g) Storing, for resale, of liquefied petroleum gas in other than I.C.C. containers, except qualifications under (b) or (d), $100;

(h) Transporting of liquefied petroleum gas, by tank truck, over the highways of this state, $100;

(i) Delivering of liquefied petroleum gas to any person, by tank truck, or the delivering, to any person other than the ultimate consumer, in containers, except where the delivering is incidental to the carrying on of a business licensed under paragraph (f) herein, $100;

(j) The filling of liquefied petroleum gas containers of one hundred (100) pound capacity or more, $100;

(k) Engaging in all or any combination of the businesses set out in paragraphs (a) to (j) inclusive (this license shall be in lieu of all individual licenses required herein), $100;

(2) No person shall be required to obtain a license in order to engage in the following activities concerning liquefied petroleum gas:

(a) Storage, by the ultimate consumer, for consumption only;

(b) Transportation, by the ultimate consumer, in quantities of ten (10) gallons or less;

(c) Handling in quantities of less than one (1) gallon United States water capacity, where the gas is an integral part of a device for its utilization;

(d) Use as a fuel, while in the fuel tank of a motor vehicle.

(3) Any person engaged in any business for which a license is required under the provisions of subsection (1) and who engages in such business at more than one (1) office or place of business in this state shall obtain a separate license for each such office or place of business and shall pay therefor the required license fee; except that for the purposes of issuance of licenses under subsection (1) all facilities for the storage only of liquefied petroleum gas for resale within a radius of twenty (20) miles of an office or place of business shall be considered a part of such office or place of business and shall not require separate licensure.

(4) The *commissioner* [secretary] shall further have the authority to make, promulgate, and enforce such reasonable regulations requiring proof of ability to respond in damages for personal injury and property damages in the minimum amount of ten thousand dollars ($10,000), prior to the issuance of a license.

Section 27. KRS 234.130 is amended to read as follows:

(1) The licenses required under KRS 234.120 shall be issued on a calendar year basis and shall be procured from the commissioner prior to the time of beginning business. All licenses and renewals thereof shall expire on December 31 of each year.

(2) Any person applying for a license after July 1 of any year shall be required to pay therefor only one-half (1/2) of the applicable fee for that calendar year.

(3) Every person licensed under the provisions of KRS 234.100 to 234.160 who desires to continue in business shall, during January of each year, procure from the *commissioner* [secretary] a renewal license for which he shall pay a fee equal to the original license fee. Failure to procure a renewal license prior to January 31 of the year for which it is issued shall result in the imposition of a penalty equal to twenty per cent (20%) of the renewal fee which shall be paid to the *commissioner* [secretary] in addition to the renewal fee.

Section 28. KRS 234.140 is amended to read as follows:

(1) The *commissioner* [secretary], after a public hearing thereon, shall make, promulgate, and enforce regulations setting forth minimum general standards covering the design, construction, location, installation, and operation of equipment for storing, handling, transporting by tank truck, tank trailer, and utilizing liquefied petroleum gases, and specifying the odorization of said gases and the degree thereof. Said regulations shall be such as are reasonably necessary for the protection of the health, welfare and safety of the public and persons using such materials, and shall be in substantial conformity with the generally accepted standards of safety concerning the same subject matter. *Regulations concerning the construction of buildings relating to liquefied petroleum gases shall conform to the uniform state building code after said code is promulgated.*

(2) The *commissioner* [secretary] shall promulgate any additional rules and regulations which he deems necessary to provide for the safe storage, handling, transportation and use of liquefied petroleum gas.

Section 29. KRS 234.160 is amended to read as follows:

All moneys collected under the provisions of KRS 234.100 to 234.160 shall be paid into the state treasury and credited to a trust and agency fund to be used by the department of *buildings, housing and construction* [justice] solely for the administration and enforcement of KRS 234.100 to 234.160 and 234.990.

Section 30. KRS 234.171 is amended to read as follows:

The *commissioner* [secretary of justice] may appoint an advisory board composed of persons actively engaged in the liquefied petroleum gas industry in the state of Kentucky. The board shall give the *commissioner* [secretary] the benefit of its technical knowledge to aid him in supervising and regulating the liquefied petroleum gas industry.

Section 31. KRS 234.175 is amended to read as follows:

(1) Domestic and commercial gas consuming equipment and appliances shall not be installed unless their correctness as to design, construction, and performance is certified by:

(a) A nationally recognized testing agency adequately equipped and competent to perform such services evidenced by the attachment of its seal or label to such gas appliances. This agency shall be one which maintains a program of national inspection of production models of gas appliances, at least once each year on the manufacturer's premises;

(b) By the American Gas Association Laboratories, as evidenced by the attachment of its listing symbol or approval seal to gas appliances and a certificate or letter certifying approval under the above-mentioned requirements, or listing by Underwriters' Laboratories, Inc., shall be considered as constituting compliance with the provisions of this section, providing, that the manufacturer has approval and certification of same from the *department of buildings, housing and construction* [liquefied petroleum gas bureau, department of justice].

(2) Equipment not subject to A.G.A. or laboratory inspection must have approval of the *department of buildings, housing and construction* [liquefied petroleum gas bureau of the department of justice].

Section 32. KRS 234.180 is amended to read as follows:

(1) For plants storing liquefied petroleum gases, and used for the dispensing of liquefied petroleum gases in liquid state into container or containers, for resale, plans shall be submitted, in duplicate, to the *department of buildings, housing and construction* [liquefied petroleum gas bureau, department of justice,] and shall be approved by said *department* [bureau] before construction is started. Plans so submitted shall show the following information as a minimum:

(a) The name and address of the owner, and the name and purpose of the plant proposed;

(b) Location of the proposed plant in relation to the nearest city, town, highways, railroads, and built up areas;

(c) A plot plan showing dimensions of the area proposed to be used for the plant, distances to the nearest property lines and the location and construction of any buildings which might affect the distances required under regulations adopted by the *department of buildings, housing and construction* [secretary of justice];

(d) Construction drawings showing the arrangement and construction of all tanks, tank supports, piping, accessories, buildings, and appurtenant items of construction. These drawings shall be in sufficient detail to allow a contractor who is familiar with tank and pipe installation but not necessarily familiar with liquefied petroleum gas installations to use such drawings to satisfactorily complete the installation without further instructions;

(e) A copy of the original boiler inspector's report of inspection of the tank or tanks to be used or a reference to manufacturer's name and serial number of the tank so that such report may be obtained direct;

(f) The date of completion of the plans, the dates of any subsequent revisions and the signature of the person assuming responsibility for the correctness of the plans.

(2) For plants, installed for industrial or commercial usage, having a nominal water capacity of 150 gallons or over and serving an aggregate BTU usage of 150,000 BTUs or over and/or used for dispensing liquefied petroleum gas into other containers, not for resale, a report of installation, giving location and equipment installed, must be made to the *department of buildings, housing and construction* [liquefied petroleum gas bureau, department of justice,] not later than ten (10) days after installation.

Section 33. KRS 236.010 is amended to read as follows:

As used in this chapter,

(1) "Boiler" or "boilers" shall mean and include steam or vapor boilers operating at less than 500 pounds per square inch gauge or at less than 500 degrees Fahrenheit, hot water heating boilers and hot water supply boilers.

(2) "Commissioner" means the commissioner of *buildings, housing and construction* [insurance].

(3) "Department" means the department of *buildings, housing and construction* [insurance].

(4) "ASME" means American society of mechanical engineers.

(5) "Board" means board of boiler rules.

Section 34. KRS 236.020 is amended to read as follows:

(1) In the department of *buildings, housing and construction* [insurance] there shall be a board of boiler rules, which shall hereafter be referred to as the board, consisting of seven (7) members including the commissioner who shall serve as chairman. The other members shall be appointed to the board by the governor; one (1) for a term of one (1) year, one (1) for a term of two (2) years, two (2) for a term of three (3) years and two (2) for a term of four (4) years, or until their successors are appointed and qualified. At the expiration of their respective terms of office they, or their successors identifiable with the same interest respectively as provided in this section, shall be appointed for terms of four (4) years each. The governor may at any time remove any member of the board. Upon the death or incapacity of any member the governor shall fill the vacancy for the remainder of the vacated term with a representative of the same interests with which his predecessor was identified. Of these six (6) appointed members one (1) shall be a practical steam operating engineer of high pressure boilers, or any other representative of owners and users of high pressure boilers within the state; one (1) shall be a representative of the boiler manufacturers within the state; one (1) shall be representative of a boiler insurance company licensed to do business within the state; one (1) shall be a representative of the boilermakers within the state; one (1) shall be a metallurgist specialized in ferrous welding procedures, a practical welder on pressure piping of wide experience or a representative of pipe erecting concerns doing business within the state of Kentucky; and one (1) member shall be a representative of welders or other skilled crafts engaged in erection of pressure piping related to boilers. The board shall meet at least four (4) times each year at the capitol or other place designated by the board. No approval, decision or ruling of the board shall be effective unless supported by the vote of at least (4) members thereof.

(2) The members of the board shall serve without salary and shall receive their actual necessary expenses, incurred while in the performance of their duties as members of the board, to be paid in the same manner as in the case of other state officers.

Section 35. KRS 236.030 is amended to read as follows:

After reasonable notice and opportunity to be heard, the commissioner of *buildings, housing and construction* [insurance], upon advisement by the board, shall by general order, rule or regulation, fix reasonable standards for the safe construction, installation, inspection and repair of boilers and associated pressure piping in this state. Orders, rules and regulations prescribed by the board shall be enforced by the department of *buildings, housing and construction* [insurance].

Section 36. KRS 236.060 is amended to read as follows:

(1) KRS 236.005 to 236.150 shall not apply to boilers or related piping under federal control.

(2) KRS 236.005 to 236.150 shall not apply to the following boilers or related piping:

(a) Boilers located on farms and used solely for agricultural purposes;

(b) Boilers located at any oil refineries;

(c) Steam or vapor boilers used for heating purposes carrying a pressure of not more than fifteen (15) pounds per square inch gauge, and which are located in private residences or in apartment houses of less than six (6) families;

(d) Hot water heating boilers carrying a pressure of not more than thirty (30) pounds per square inch gauge which are located in private residences or in apartment houses of less than six (6) families or hot water supply boilers which are located in private residences or in apartment houses of less than six (6) families.

(e) Any unfired pressure vessels used as containers for liquefied petroleum gases and subject to the jurisdiction of the department of *buildings, housing and construction* [insurance] under KRS chapter 234.

Section 37. KRS 219.350 is amended to read as follows:

No park shall be constructed or altered without a permit as provided in KRS 219.310 to 219.410. An application for a permit to construct or alter a park shall be made to the department upon forms provided by it. The application shall include plans for construction or alteration of the park and shall contain such information in regard to the proposed park as the department may reasonably require, which may include affirmative evidence of ability to comply with requirements of KRS 219.310 to 219.410 and regulations adopted by the secretary. *All plans for the construction, installation or alteration of buildings shall be forwarded by the department to the department of buildings, housing and construction. Only the department of buildings, housing and construction shall review such plans for conformance with the uniform state building code. The department of buildings, housing and construction shall expedite the review of such plans and return them to the department for human resources for completion of the application process.* Each application for a permit to construct or alter a park shall be accompanied by a permit fee of twenty-five dollars. Each permit to construct shall be issued only for the person and premises, including the number of spaces named in the application and shall not be transferable. Each permit to construct shall expire one year from date of issuance.

Section 38. KRS 219.370 is amended to read as follows:

The secretary shall adopt rules and regulations for the effective administration and enforcement of KRS 219.310 to 219.410, which may include but are not limited to, standards for park construction and layout, service buildings, watering stations, sanitary stations, sanitation, site planning, lot size, water supply, sewage disposal, lighting, refuse handling, insect and rodent control, inspections, hearings, issuance, suspension, and revocation of permits, and such other matters as may be necessary to insure a safe and sanitary park operation. *All building construction regulations shall conform to the uniform state building code.* The secretary is empowered to establish separate rules and regulations for mobile home parks and recreational vehicle parks.

Section 39. KRS 227.200 is amended to read as follows:

As used in KRS 227.200 to 227.400, unless the context otherwise requires:

(1) "Commissioner" means the commissioner of *buildings, housing and construction* [insurance];

(2) "Department" means the department of *buildings, housing and construction* [insurance];

(3) "Fire loss" means loss of or damage to property, loss of life or personal injury, by fire, lightning or explosion;

(4) "Owner" means any person who owns, occupies or has charge of any property;

(5) "Property" means property of all types, both real and personal, movable and immovable;

(6) "Rule" or "regulation" means a general order of the commissioner, designed for the prevention of fire loss, which affects or may affect property rights of a designated class of owners or for the prevention of fire loss by certain indicated hazards;

(7) "Order" or "special order" means an order of the commissioner, designed for the prevention of fire loss, which affects or may affect the property rights of a particular owner or designated property;

(8) As used in this section and KRS 227.305, unless the context otherwise requires:

(a) "Physically handicapped person" shall mean a person confined to a wheelchair; a person who uses braces or crutches; a person who because of the loss of a foot or leg or because of an arthritic, spastic, pulmonary or cardiac condition, walks with difficulty or insecurity; a person who suffers from a faulty coordination or palsy; a person who is blind or whose sight is so impaired that, functioning in a public area, he is insecure or exposed to danger; a person whose hearing is so impaired that he is unable to hear warning signals; and a person whose mobility, flexibility, coordination and perceptiveness are significantly reduced by aging;

(b) "Public building" shall mean any building constructed, owned or leased by the commonwealth or any political subdivision thereof;

(c) "Public accommodation" shall mean any building defined as a public accommodation by Title II of the Federal Civil Rights Act of 1964, whether or not it affects interstate commerce;

(d) "Facility for physically handicapped persons" shall mean any convenience or device which facilitates the health, safety or comfort of a handicapped person, including, but not limited to, ramps, handrails, elevators, and doors;

(e) "American National Standard Institute Specifications" shall mean the American National Standard Institute Specifications for Making Buildings and Facilities Accessible to, and usable by, the Physically Handicapped, A 117.1-1961; and

(f) "Remodel" shall mean, with respect to an existing public building or public accommodation, to construct an addition, make substantial repairs, or substantially alter the appearance, design or layout.

Section 40. KRS 227.300 is amended to read as follows:

(1) The commissioner shall promulgate reasonable rules and regulations based upon good engineering practice and principles as embodied in recognized standards of fire prevention and protection, providing for a reasonable degree of safety for human life against the exigencies of fire and panic, and insuring as far as is practicable against fire loss. Such rules and regulations shall be known as the standards of safety. *After promulgation of the uniform state building code, no part of the standards of safety shall establish in whole or in part, any building code other than the uniform state building code.*

(2) In making such rules and regulations the commissioner shall establish minimum fire prevention and protection requirements, including but not limited to requirements for design, construction, installation, operation, storage, handling, maintenance or use of the following: structural requirements for the various types of construction; building restrictions within congested districts; exit facilities from structures; fire alarm systems and fire extinguishing systems; fire emergency drills; requirements for buildings of public assembly; flue and chimney construction; heating devices; electrical wiring and equipment; air conditioning, ventilating and other duct systems; refrigeration systems; flammable liquids, oil and gas wells; garages, repair and service shops; application of flammable finishes, explosives, acetylene, liquefied petroleum gas and similar products; calcium carbide and acetylene generators; dry cleaning and dyeing plants; flammable motion picture film; combustible fibres; airports and airport buildings; hazardous chemicals; rubbish, open flame devices; parking of vehicles; dust explosions; lightning protection; and other special fire hazards.

Section 41. KRS 227.305 is amended to read as follows:

(1) The *board of buildings, housing and construction* [state fire marshal] shall issue regulations relating to the minimum requirements for facilities for physically handicapped persons in all public buildings and public accommodations to be constructed or remodeled after June 21, 1974. In doing so *the board* [he] shall adopt those standards known as the American National Standard Institute Specifications.

(2) After June 21, 1974, no building permit or other official authorization for construction or remodeling of a public building or public accommodation by any person is valid unless the plans and specifications are in compliance with the regulations issued by the *board of buildings, housing and construction* [state fire marshal] pursuant to this section and KRS 227.200.

Section 42. KRS 227.410 is amended to read as follows:

(1) As used in this section and KRS 227.991:

(a) "Gas-fired heating device" means a gas burning appliance of either a gravity or mechanical circulation type, designed for the heating of air or of water in an enclosed structure.

(b) "Gas-fired room heating device of the unventable type" means a self-contained, free standing, air heating, gas-fired appliance, designed as a space heater for an enclosed structure.

(c) "Enclosed structure" includes a room used for public assembly, educational, instructional, mercantile, office, or residential purposes (including mobile homes, travel trailers and houseboats).

(2) No person, firm or corporation shall sell at retail or wholesale, or offer or expose for sale at retail or wholesale any gas-fired room heating device of the unventable type, or other type which has not been approved as provided in KRS 234.175, except unvented heaters that are built and sold solely for the curing of tobacco, which if sold or used by any person for any other purpose shall subject him to the penalty set forth in KRS 227.991.

(3) No person, firm or corporation shall install in any room or enclosed structure any gas-fired room heating device of the unventable type or other type which has not been approved as provided in KRS 234.175.

(4) No person, firm or corporation may install any gas-fired heating device of the ventable type for use in any room or enclosed structure unless said device is vented in accordance with the provisions of the standards of safety of the department of *buildings, housing and construction* [insurance].

(5) No person, firm, or corporation who may own a gas-fired heating device of the unventable type or a gas-fired heating device of the ventable type, which has not been approved as provided in KRS 234.175, or which does not conform to the provisions of the standards of safety of the department of insurance (all of which heating devices are referred to as "proscribed heaters" in this subsection and subsection (6) of this section), or who may occupy an enclosed structure in which such a proscribed heater is installed, shall

continue to use or operate said proscribed heater after receipt of a written order described in subsection (6) of this section, and before the conditions contained in said order are met.

(6) Cities of the first or second class may under ordinance duly enacted appoint inspectors or officers who have power to issue written orders directing owners of heaters or occupants of structures in which heaters are installed, to discontinue the use or operation of a proscribed heater and to specify conditions which must be met before said proscribed heater may again be used or operated. Said order may be issued if said authorized person has actual knowledge of the existence of a proscribed heater, and, in the opinion of said authorized person, the continued use or operation of said proscribed heater would constitute a danger to life or health; provided however, no person, agency, firm, or corporation (other than the owner, user, seller or installer of a proscribed heater) shall be liable for civil damages for his or its failure to recognize a proscribed heater, for failure to issue the order described in this subsection, for complying with said order, for assisting with the compliance therewith, or for allowing the continued use or operation of a proscribed heater prior to receipt of said order.

(7) This section shall not apply to liquefied petroleum gas heaters subject to the jurisdiction of the department [of insurance] under KRS chapter 234, except those liquefied petroleum gas heaters sold or installed for residential usage.

Section 43. KRS 227.450 is amended to read as follows:

As used in KRS 227.450 to 227.500 unless the context otherwise requires:

(1) "Electrical contractor" means any individual, partnership or corporation that engages in the business of or employs others for the construction, alteration or repair of any electrical wiring used for the purpose of furnishing heat, light or power;

(2) "Electrician" means any person who is employed by an electrical contractor and is engaged in the construction, alteration or repair of any electrical wiring used for the purpose of furnishing heat, light or power;

(3) "Electrical" pertains to the installation of wires and conduits for the purpose of transmitting electricity, and the installation of fixtures and equipment in connection therewith.

(4) "Electrical inspector" means any person employed [by a city or county and engaged] in the inspection of wiring used for the purpose of furnishing heat, light, or power.

Section 44. KRS 227.460 is amended to read as follows:

(1) KRS 227.450 to 227.500 apply to *all* cities [of the second and third classes,] and counties [containing those cities].

(2) KRS 227.450 to 227.500 shall not apply to rural electric cooperatives, to factory maintenance employes or any employes of the utility companies, railroads or municipalities in pursuit of their respective employer's business.

Section 45. KRS 227.470 is amended to read as follows:

Any action authorized by the provisions of KRS 227.450 to KRS 227.500 to be accomplished by a city or county may be undertaken *cooperatively by two (2) or more local governments upon a resolution by the governing body of each local government to do so* [by the city and county jointly]. *Such cooperative agreements shall conform to the provisions of KRS Chapter 65.* [The provisions of KRS 227.450 to 227.500 may only be accomplished jointly by city and county where a joint resolution is passed, both by the fiscal court and the governing body of the city and in such instance where a joint resolution fails, the provisions of KRS 227.450 to KRS 227.500 may be accomplished separately by the city and the county.]

Section 46. KRS 227.480 is amended to read as follows:

(1) A city or county *shall, when the uniform state building code as it pertains to the plan review responsibilities of local government takes effect,* [may] require any person to obtain permits before commencing construction, alteration or repairs of any electrical wiring, and require such inspection as it deems necessary for the safety of life and property. *A city or county may require such permits and inspections prior to the time when the uniform state building code local government plan review responsibilities take effect.*

(2) Reasonable standards for the construction, alteration and repair of any electrical wiring shall be *those adopted in the uniform state building code after said code is promulgated by the Board of Buildings, Housing and Construction,* [adopted by the city or the county] and shall have as a minimum standard the requirements of the national electric code. [which is incorporated into the state standards of safety.] *These standards* [The standards so adopted by the city or the county] shall be used by the electrical inspector in making his inspections.

Section 47. KRS 227.489 is amended to read as follows:

The *Commissioner of Buildings, Housing and Construction* [public service commission] shall require electrical inspectors to be certified. Examinations shall be based on the national electrical code [incorporated in article II of the standards of safety prescribed by the public service commission]. Electrical inspectors who have been engaged in the inspection of electrical light and power wiring installations, based on the requirements of the national electrical code, for a period of five (5) years, may be certified on the basis of knowledge of this subject and experience.

Section 48. KRS 227.490 is amended to read as follows:

(1) A city or county may require all electrical contractors and electricians, except those who have had at least five (5) years of experience as an electrical contractor and/or electrician, to be examined by an examining board before being issued a license to engage in their occupation. An electrician desiring to become a contractor may apply for an examination to the examining board. A city or county may require all nonresident electrical contractors and electricians to conform to reasonable standards prior to engaging in their occupation within the jurisdiction of the city or county.

(2) The examining board shall be composed of seven (7) members appointed by the city or the county and in such instances as where the provisions of KRS 227.450 to 227.500 are accomplished jointly as provided for in KRS 227.470, the appointment shall be by joint resolution of the governing body of *each local government which is party to the cooperative agreement. Such cooperative agreement shall conform to the provisions of KRS Chapter 65.* [the city and the county.] The board shall consist of two (2) fire department officials, two (2) consulting electrical engineers or architects, two (2) electrical contractors and one (1) utility company official. No appointee shall serve more than two (2) consecutive years.

(3) The members of the examining board shall serve without salary.

(4) In order to administer KRS 227.450 to 227.500, the board may issue and revoke licenses [,hear and settle disputes over code questions and how it shall apply in their area]; conduct and make regulations for conducting examinations of applicants; govern the method and time of making application for examination and the time within which applicant shall be examined after application has been filed. It may adopt any other reasonable regulations to administer KRS 227.450 to 227.500.

(5) Electrical contractors and electricians may be required to pay a reasonable fee before issuance of a license to them.

Section 49. KRS 318.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Department" means *Department of Buildings, Housing and Construction* [Department for Human Resources];

(2) "Journeyman plumber" means a person who engages or offers to engage, either as an occupation or otherwise, in the construction, installation, alteration, maintenance, repair, remodeling or removal, and replacement of plumbing under the supervision, direction and responsibility of a master plumber;

(3) "Master plumber" means a person who assumes responsible charge, supervision or direction of journeyman plumbers, plumbers' apprentices and other persons in the construction, installation or alteration of plumbing or who engages in, offers to engage in or advertises or otherwise represents that he is permitted or qualified to engage in the design, planning, superintending, contracting for or responsible charge of plumbing;

(4) "Plumbing" means the art of installing in buildings the pipes for distributing the water supply, the fixtures for using water and drainage pipes for removing waste water and sewage, together with fittings, appurtenances, and appliances of various kinds, all within or adjacent to the building. It shall include:

(a) The water service pipe which forms the connection between the property line and the building other than piping serving fire-fighting equipment;

(b) Private water supply systems;

(c) House sewers which convey the waste water and sewage from the building to the property line or other points of disposal but not including sewers located between manholes and sewers extending five (5) feet from a main or manhole on private property; and

(d) Storm sewers and rain water piping located within a building to a point two (2) feet outside of the building and private sewage disposal systems other than those which have a treated affluent.

(5) "Public buildings" means any building intended for public use or built with public funds and includes but is not limited to the following: schools, industrial establishments, housing projects, restaurants, food-handling establishments, private clubs, theaters including drive-ins, trailer coach parks, camping areas, hospitals, nursing homes, hotels, motels, tourist courts, rooming houses, boarding houses, and other establishments furnishing public sleeping accommodations;

(6) "Maintenance man" means a person employed to maintain and keep plumbing in good repair;

(7) "Apprentice" means a person in the process of learning the plumbing trade who assists and is under the personal supervision of a licensed master or licensed journeyman plumber;

(8) "Farmstead" means a farm dwelling together with other farm buildings and structures incident to the operation and maintenance of the farm located outside the corporate limits of a municipality and not connected to a public water supply.

(9) "Commissioner" means the Commissioner of the Department of Buildings, Housing and Construction.

Section 50. KRS 318.040 is amended to read as follows:

(1) An applicant for a master or journeyman plumber's license shall:

(a) Be at least eighteen (18) years of age;

(b) Be of good moral character;

(c) Be a citizen of the United States or have filed with the United States district court "first papers" for United States citizenship; and

(d) Possess all the other qualifications that may be prescribed by rules and regulations of the *commissioner* [secretary].

(2) Except as otherwise provided in this chapter, no master or journeyman plumber's license shall be issued except upon a successful passage of an examination as prescribed by the department.

(3) Examinations for a license as a master plumber or journeyman plumber shall be conducted at such times and places as may be fixed by the regulations of the *commissioner* [secretary]. Applicants for an examination shall furnish such information as may be required by the *commissioner* [secretary] and shall receive from the department due notice of the time and place of the examination.

(4) The department shall prepare or cause to be prepared under its supervision examinations consisting of written and practical tests with such questions and tests as in the discretion of the department will determine:

(a) With respect to master plumber's license applicants, that such applicants are qualified in view of the definitions, provisions, and purposes of this chapter to carry on responsibly, reasonably, and competently, the activities which a licensed master plumber is authorized to engage in by this chapter; and

(b) With respect to journeyman plumber's license applicants, their knowledge and competency to carry on the activities which a licensed journeyman plumber is authorized to engage in by this chapter.

(5) The examination papers shall be preserved by the department for a period of one (1) year.

Section 51. KRS 318.054 is amended to read as follows:

(1) Every master and journeyman plumber's license issued by the department shall expire on June 30 of each year following the date of issuance unless sooner canceled or revoked.

(2) On or before June 1 of each year, the department shall send notices to all licensed master and journeyman plumbers in this state, at their last known addresses, advising them that the annual license renewal fee is due on July 1. The annual license renewal fee shall be a reasonable fee set by regulation of the *commissioner* [secretary]. The fee for the renewal of a master plumber's license shall exceed the fee charged for a journeyman plumber's license.

(3) Any master or journeyman plumber who fails to renew his license on or before July 1 of each year may have his license renewed upon payment of the required renewal fee and a revival fee. The revival fee for a master plumber shall be five dollars ($5.00) and for a journeyman plumber three dollars ($3.00). If the renewal and revival fees are not paid by January 1 of the following year, such licenses shall be automatically canceled by operation of law for nonpayment; Provided, however, That such licenses may be reinstated upon payment of all delinquent renewal fees plus a revival fee of ten dollars ($10.00) for a master plumber and six dollars ($6.00) for a journeyman plumber. Upon presentation of proper evidence, the department may waive payment of any renewal or revival fee specified herein for persons serving on active duty in the armed forces of the United States.

Section 52. KRS 318.064 is amended to read as follows:

The department may revoke or suspend any plumber's license issued by it upon proof that the licensee has:

(1) Knowingly violated the provisions of this chapter or the Kentucky state plumbing code, or the rules and regulations of the *commissioner* [secretary];

(2) Practiced fraud or deception in applying for or obtaining a license;

(3) Is incompetent to perform services as a licensed master plumber or a licensed journeyman plumber;

(4) Permitted his license to be used directly or indirectly by another to obtain or perform plumbing work or services; or

(5) Is guilty of such other unprofessional or dishonorable conduct of a character likely to deceive or defraud the public.

Section 53. KRS 318.066 is amended to read as follows:

(1) No license shall be suspended or revoked by the department unless a hearing has been conducted or an opportunity afforded therefor, at which the holder of the license shall have the right to be present in person or by counsel and to present evidence and be heard in his own behalf. The holder of the license shall be given written notice of the hearing at least thirty (30) days prior to the date thereof. The notice shall state the time and place of the hearing and set forth the ground or grounds for the suspension or revocation in sufficient detail to apprise the holder of the license of the charges preferred against him. Upon failure of the holder of the license to respond to the complaint at or before the time of the hearing thereon, the allegations set forth in the complaint shall be taken by the department as confessed. Proceedings at such hearings shall be in accordance with the rules and regulations of the *commissioner* [board].

(2) The department shall appoint and provide for a hearing officer to conduct such hearings. The hearing officer shall have authority to issue subpoenas for the attendance of witnesses and the production of papers and records, administer oaths, schedule hearings and otherwise act in the name and on behalf of the department, but shall not have authority to suspend or revoke licenses. He shall cause to be prepared and shall certify to the department a complete written transcript of the record of each hearing, including all pleas, motions and other papers relating thereto, for consideration and decision by the department. An order of the department suspending or revoking a license shall be effective thirty (30) days after notice of the entry of such order is given the holder thereof.

(3) Each notice required by this section to be given a licensee shall be served by forwarding same by certified mail, return receipt requested or by registered mail, postage prepaid, to the holder at his address as it appears in the records of the department.

(4) A licensee aggrieved by an order of the department suspending or revoking a license may, within thirty (30) days after notice thereof, appeal therefrom to the *commissioner* [board in the manner provided by KRS 311.595]. The decision of the *commissioner* [board] shall be based on the transcript of evidence prepared by the hearing officer.

(5) A person aggrieved by an order of the *commissioner* [board] suspending or revoking a license may, within thirty (30) days after notice of such suspension or revocation, appeal therefrom to the circuit court of the county in which the principal office of the department is located by filing a statement of appeal therein together with an appeal bond with good and sufficient surety to secure the payment of any costs charged against him on the appeal. The cost of preparing and certifying the record shall be paid to the department by the appellant and taxed as costs in the action to be paid as directed by the court upon final determination of the action. The appeal shall be determined by the court upon the certified record and no new or additional evidence shall be heard or considered by the court.

(6) Either party aggrieved by a final order entered by the circuit court may appeal to the Court of Appeals as in a civil action.

Section 54. KRS 318.071 is amended to read as follows:

(1) There is hereby created a state plumbing code committee which shall be established within the *Department of Buildings, Housing and Construction* [department for human resources] for administrative purposes. The state plumbing code committee shall consist of seven (7) members, one (1) of whom shall be a builder member of the Home Builders Association of Kentucky, one (1) of whom shall be a member of the Association of General Contractors, one (1) of whom shall be a member of the Kentucky Master Plumbers Association, one (1) of whom shall be a member of the Kentucky Society of Professional Engineers (who shall have a background in sanitary engineering), one (1) of whom shall be a member of the American Institute of Architects, one (1) of whom shall be a member of the United Association of Journeyman Plumbers, and one (1) of whom shall be a member of the Mechanical Contractors Association. Each member of the state plumbing code committee shall receive no compensation but shall be reimbursed for all necessary expenses. The members of the committee shall be appointed by the governor from lists of three (3) names submitted by the above mentioned organizations.

(2) Each member shall be appointed for and hold office a term of two (2) years or until his successor is appointed and qualified.

(3) At all times in the filling of vacancies of membership on the committee the balance of representation set out in subsection (1) shall be maintained.

Section 55. KRS 318.074 is amended to read as follows:

The committee shall elect from its members one (1) to serve as chairman, one (1) as vice-chairman, and the *commissioner* [secretary for human resources] shall serve as ex-officio member of the board (without a vote) and secretary. The board shall meet at least quarterly and upon special call by the chairman.

Section 56. KRS 318.077 is amended to read as follows:

The committee shall hold hearings, upon adequate notice to affected parties, before the enactment of any rule, regulation or amendment to the code, specifying the matters to be considered thereat. Any person aggrieved by any such rule, regulation or amendment approved by the *commissioner* [secretary for human resources], within 30 days after such action has become final, may appeal therefrom to the circuit court. For the purposes of this section, "persons aggrieved" shall include any person directly or indirectly injured or threatened with injury on account of any such regulation, rule or amendment, whether or not such person was a party to the proceedings out of which the order, rule, regulation or amendment arose.

Section 57. KRS 318.080 is amended to read as follows:

(1) In order to conduct examinations for persons to qualify as licensed master plumbers or journeyman plumbers, the department shall appoint as examiners the following persons to a state plumbers examining committee: An employe of the Department *of Buildings, Housing and Construction* [for Human Resources] and three (3) other persons who shall be licensed either as master or journeyman plumbers. The *commissioner* [Secretary for Human Resources] shall be an ex-officio examiner and permanent secretary of the committee. With the exception of the issuance of any order involving the revocation, suspension or cancellation of a master or journeyman plumber's license, the *commissioner* [Secretary for Human Resources] may delegate to a subordinate employe in the department the power to be present and participate, including the right to vote, as his representative at any meeting, hearing or other proceeding of the state plumbers examining committee. Plumber examiners shall serve at the pleasure of the department.

(2) The department shall appoint assistant plumber examiners who shall be qualified licensed master or journeyman plumbers who shall serve at the pleasure of the department. Assistant plumber examiners shall perform such duties as are delegated to them by the state plumbers examining committee.

(3) Plumber examiners and assistant plumber examiners shall receive no compensation for their services but shall be reimbursed for their necessary traveling expenses.

Section 58. KRS 318.130 is amended to read as follows:

(1) In order to administer this chapter, the state plumbing code committee shall promulgate and thereafter from time to time may amend a code to be known as the Kentucky state plumbing code, regulating the construction, installation and alteration of plumbing and plumbing fixtures and appliances, house sewers or private sewage disposal systems and private water supplies, methods and materials to be used therein within this state, using as a minimum standard the basic principles of the national plumbing code coordinating committee, as evidenced by that committee's final report of 1951 with variations thereof or additions thereto as the *commissioner* [secretary] considers are warranted by local, climatic or other conditions. The code may also designate the number of plumbing fixtures for public buildings. The state plumbing code committee may adopt any other reasonable rule or regulation to administer this chapter. No rules or regulations so approved by the committee shall become effective except upon adoption by the *commissioner* [secretary for human resources].

(2) The *commissioner* [secretary] may continue in effect any plumbing code duly promulgated by *the state board of health* [them] on file with the Legislative Research Commission in Frankfort, Kentucky, on June 16, 1966.

Section 59. KRS 318.134 is amended to read as follows:

(1) No person, firm or corporation shall:

(a) Construct, install, or alter, or cause to be constructed, installed, or altered, any plumbing without first having procured a plumbing installation permit therefor from the department;

(b) Use or continue to use, or permit the use or continued use of, any plumbing constructed, installed, or altered under a plumbing installation permit issued therefor where the department, through a duly authorized inspector, employe or agent, finds that the plumbing was not constructed, installed or altered in accordance with such permit and the Kentucky state plumbing code.

(2) All applications for plumbing installation permits shall be accompanied by plans and specifications of the proposed plumbing installation, location and construction of water supply system, type of sewage disposal, location of septic tank, drain field or pit to be used. No plumbing installation permit shall be issued until plans of the sewage disposal have been submitted to and approved by the department together with the results of an approved percolation test.

(3) The *commissioner* [board] shall fix a reasonable schedule of fees and charges to be paid for plumbing installation permits and the necessary inspections incident thereto. The *commissioner* [board] shall also fix a reasonable schedule of fees and charges to be paid for necessary inspections of the construction, installation or alteration of plumbing in public buildings.

Section 60. KRS 318.136 is amended to read as follows:

All license fees, permit and inspection fees and charges, and other moneys collected by the department, under the provisions of this chapter and the rules and regulations of the *commissioner* [secretary] adopted hereunder, shall be paid into the state treasury and credited to a trust and agency fund to be used by the department in carrying out the provisions of this chapter. No part of this fund shall revert to the general fund of the commonwealth. All moneys held in a trust and agency fund or other fund to the credit of the department for the administration and enforcement of this chapter on June 16, 1960, are hereby transferred to the trust and agency fund herein created.

Section 61. KRS 318.140 is amended to read as follows:

(1) Any *local government* [city of the first, second, or third class] may, by ordinance, enact a plumbing code, not less stringent in its provisions than the Kentucky state plumbing code, regulating the construction, installation, or alteration of plumbing within such *local government,* [city,] providing for the issuance of plumbing installation permits and fixing permit and inspection fees. *Two or more local governments may, by ordinance of each local government, enact a plumbing code as described in this section which shall be jointly enforced and administered by said local governments within their boundaries. Agreements for joint enforcement shall conform to the provisions of KRS Chapter 65.* The department may authorize any such *local government or combination of local governments* [city] to administer, carry out, and enforce the Kentucky state plumbing code and the rules and regulations of the *commissioner* [secretary] relating thereto and to issue permits and make inspections thereunder within such *local government* [city], in which event a permit issued under the provisions of the *local government* [city] plumbing code ordinance shall be deemed a permit issued by the department; Provided, however, That inspectors of the department shall have concurrent jurisdiction with *local government* [city] plumbing inspectors in the enforcement in such cities of the Kentucky state plumbing code.

(2) Any *local government* [city] enacting a plumbing code ordinance may appoint and fix the compensation of *local government* [city] plumbing inspectors. No person shall be eligible for appointment as a *local government* [city] plumbing inspector unless he has at least eight (8) years' experience as a master or journeyman plumber. At the time of his appointment he shall be licensed in accordance with the provisions of this chapter.

(3) Nothing contained in this chapter shall be construed as prohibiting a *local government* [city] from collecting occupational license fees from persons, firms or corporations engaged in the plumbing business.

Section 62. KRS 318.160 is amended to read as follows:

Except as otherwise provided by law or by regulation of the *commissioner,* [secretary,] no person shall construct, install, or extensively alter any plumbing, sewerage or water supply system of any public building or establishment without having first obtained the approval of the department in writing. Detailed plans and specifications of the proposed facility showing the plumbing system, sewage disposal system, and water supply system shall be submitted to the department prior to the construction or alteration of the facility. In the event no public sewer is available, the plan shall include the proposed type of sewage disposal system. In the event a sewage subsoil drainage system is used, a complete soil study, including among other pertinent data, the results of percolation tests shall be submitted. Such percolation tests shall be conducted in accordance with the standards adopted by the department. All plans and specifications shall be submitted in triplicate to the department. The department shall notify the applicant in writing of the approval or disapproval of the plans. The construction, installation or alteration shall be done in accordance with the approved plans.

Section 63. KRS 318.180 is amended to read as follows:

(1) Notwithstanding the existence or pursuit of any other remedy (civil or criminal) the department, or its officers, agents, or inspectors, are hereby authorized to institute and maintain actions to restrain and enjoin any violation of this chapter, the state plumbing code, or the rules and regulations of the *commissioner* [secretary] relating thereto.

(2) City, county and commonwealth's attorneys, and the attorney general, shall within their respective jurisdictions represent the department, its officers, agents, and inspectors, in the enforcement of the provisions of this chapter, the state plumbing code, and the rules and regulations of the *commissioner* [secretary] relating thereto, but when the department deems it necessary, it may employ, at its discretion, special attorneys to assist the department, or its officers, agents, or inspectors, and may pay reasonable compensation, fees and other costs from any unexpended plumbing funds.

Section 64. KRS 67.380 is amended to read as follows:

The fiscal court of any county shall have authority, by order or resolution, to adopt, [and modify or amend from time to time,] and to enforce, regulations governing the construction, reconstruction, remodeling, repair and maintenance of buildings, *pursuant to the provisions of Section 6 of this Act.* [other than buildings for agricultural purposes located upon premises that are used solely for agricultural purposes.]

Section 65. KRS 67.410 is amended to read as follows:

(1) The fiscal court of any such county [containing a city of the first or second class] may appoint a qualified and competent person to administer such regulations. His official title shall be "Building Inspector of .... County, Kentucky." His salary shall be fixed by the fiscal court, and paid out of the county levy. He shall have such deputies and assistants as the fiscal court deems necessary, and their salaries shall likewise be fixed by the fiscal court and paid out of the county levy. The fiscal court shall also pay out of county funds the necessary expenses of his office. The fiscal court may contract with individuals or corporations for the performance of technical or scientific services required for the proper enforcement and administration of its building regulations.

(2) No person shall build, erect, construct, reconstruct, remodel, relocate, alter or repair any building within the county without first obtaining a building permit from the building inspector.

(3) The fiscal court shall establish a system of reasonable fees to be charged every applicant for such permit, *but such fees shall not exceed the cost of the service provided*

(4) Any person aggrieved by any ruling, order, or decision of such building inspector may appeal *using the procedures provided in Section 7 of this Act.* [to the circuit court and to the Court of Appeals.]

Section 66. KRS 56.480 is amended to read as follows:

The department may appoint qualified licensed engineers and qualified graduate engineers may be appointed for a period not to exceed one (1) year without obtaining a license, who shall perform duties delegated to them from time to time by the commissioner of finance. The department shall prepare necessary plans and specifications, shall investigate and make studies of the comparative need and demand for acquiring lands, or for the construction or reconstruction or structural maintenance of buildings, or the purchase, installation or construction of equipment, facilities or furnishings incidental or pertaining thereto, and shall make the estimates of cost required in connection with or incidental to the development, purchase, acquisition or construction of the foregoing. The engineering staff shall give technical assistance and perform other duties the commissioner of finance requires. *Review of construction plans for conformance with the Uniform State Building Code shall be conducted by the department of buildings, housing and construction.*

Section 67. KRS 56.491 is amended to read as follows:

(1) No state agency shall have power or authority to make plans and specifications, advertise for bids, let contracts or incur any financing commitments, either in the way of a charge against public funds or in the way of negotiations for issuance of revenue bonds, for any capital construction projects involving the improvement of lands or the construction, alteration, reconstruction, or major repair of any building or other structure, or sewage disposal or water supply system, requiring the expenditure of more than $25,000 without first securing the approval of the executive department for finance and administration.

(2) The state agency seeking such approval shall submit to the executive department for finance and administration a general description of the proposed project, with such detailed information as the department may require. *Review of construction plans for conformance with the Uniform State Building Code shall be conducted by the department of buildings, housing and construction.* The department *for finance and administration* shall not approve any such project requiring its approval in any instance where it finds that the project is not needed, or that the proposed method of financing is not sound, or in cases where the project will exceed the amount of the funds available therefor, or the work contemplated will be insufficient to accomplish the purpose of the project, or that after providing for the ordinary recurring expenses of government and debt service and for payments under existing allotments for extraordinary expenses and capital outlay, cash will not be available in the state treasury to promptly pay for the work during the biennium, or except as provided in subsection (5) of this section that the work is to be done by employes of the agency.

(3) The finding of the executive department for finance and administration shall be final except in cases where the issuance and sale of bonds is proposed, in which cases the department shall submit its findings to the commission for final approval, modification, or disapproval.

(4) Any capital construction project, the total cost of completion of which the executive department for finance and administration determines will exceed $25,000, shall be contracted for on a competitive bid basis, and the execution of such contracts must be approved and authorized by the department. When a capital construction project has been approved as provided in this section, in whole or in part, the department shall prepare the plans and specifications, advertise for bids, award the contracts, supervise the construction and handle the financial negotiations on behalf of the requesting state agency, or with prior written approval, the department may authorize a state agency to do so with delegated authority of the department.

(5) A capital construction project, the total cost of completion of which the executive department for finance and administration determines will not exceed $25,000, may be performed by the regular employes of the requesting agency; provided, however, that the project must be approved and authorized by the department. Necessary materials and supplies shall be procured in accordance with the standard purchasing procedures and policies of the department as defined in KRS Chapter 45.

(6) This section does not apply to capital outlays to the bureau of highways for roads and bridges.

(7) This section shall not apply to capital outlays by the department of corrections for repair, maintenance, improvement, or expansion of present correctional facilities on which projects inmates are used. Any capital construction project to be performed by the department of corrections shall be approved and authorized by the executive department for finance and administration.

Section 68. A new section of KRS Chapter 198B is created to read as follows:

Any person who violates any provision of this Act, or of the Uniform State Building Code, or any directive or order issued pursuant thereto shall be fined not less than twenty-five dollars ($25) nor more than ten thousand dollars ($10,000). Each day the violation continues shall constitute a separate offense.

Section 69. KRS 17.065 is repealed.

Section 70. KRS 67.390 and 67.400 are repealed.

Section 71. Whereas it will be necessary to coordinate the implementation of certain procedures specified in this Act with the termination of other procedures found in existing law, the following sections of this Act shall take effect on the dates specified: Sections 15, 21, 25 through 36, 39, 40, 42 through 47, 49 through 63, July 1, 1978; Section 41, August 31, 1978; Sections 16, 64, 65, 70, August 31, 1979; Sections 17 through 20, 22, 23, 24, 37, 38, 48, 66, and 67, February 28, 1979.

HB 37, AN ACT relating to health care for government employes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 18.410 is amended to read as follows:

(1) The commissioner of finance, upon the recommendation of the commissioner of personnel, may procure from one or more life insurance companies, [or from one or more hospitalization insurance companies,] authorized to do business in this state, a policy or policies of group life insurance insuring the lives of all or any class or classes of state employes [, or may procure a policy or policies of group hospitalization insurance covering all or any class or classes of state employes]. The policy or policies shall be approved by the commissioner of insurance and may contain such provisions as he approves whether or not otherwise permitted by the insurance laws. It is intended that life insurance [and hospitalization insurance] may be made available for state employes, except that the procuring of each is permissive.

(2) The term "state employe," for purposes of KRS 18.410 to 18.440, *and Sections 2 and 3 of this Act,* shall mean a person who is regularly employed by any department, board, agency or branch of state government, and who is also a contributing member of any one of the retirement systems administered by the state.

(3) The term "premiums," for the purposes of KRS 18.410 to 18.440 *and Sections 2 and 3 of this Act,* shall mean premiums to be paid on any type of insurance authorized under KRS 18.410 to 18.440.

Sections 2. A new section of KRS Chapter 18 is created to read as follows:

(1) The commissioner of finance, upon the recommendation of the commissioner of personnel, may procure from one or more hospitalization insurance companies authorized to do business in this state, a policy or policies of group hospitalization insurance covering all or any class or classes of state employes. All state employes for whom such hospitalization insurance is provided shall be given an option to elect either standard hospitalization coverage or coverage by a health maintenance organization whenever any employe requests such option. The policy or policies shall be approved by the commissioner of insurance and may contain such provisions as he approves whether or not otherwise permitted by the insurance laws. It is intended that either hospitalization insurance or coverage by a health maintenance organization may be made available for state employes, except that the procuring of such coverge is permissive.

(2) The health maintenance organization coverage option shall be made available to all state and local government employes, regardless of the distance between either the place of residence or the work station of such employes and the facilities of a health maintenance organization.

(3) The premiums may be paid by the policy holder:

(a) wholly from funds contributed by the insured employe, by payroll deduction or otherwise,

(b) wholly from funds contributed by the state or department or agency, or

(c) partly from each. No payment of premium by the state or department, board or agency of the state shall constitute compensation to an insured employe for the purposes of any statute fixing or limiting the compensation of such an employe; any premium or other expense incurred by the state or department, board or agency shall be considered a proper cost of administration.

(4) The policy or policies may contain such provisions with respect to the class or classes of employes covered, amounts of insurance for designated classes or groups of employes, terms of eligibility, continuation of insurance after retirement, and such other provisions as the commissioner of insurance may approve.

(5) The commissioner of finance is authorized to perform all acts necessary or advisable for the purpose of contracting for and maintaining insurance under the provisions of this Act.

Section 3. KRS 79.080 is amended to read as follows:

(1) Cities of all classes, [and] counties *and urban county governments* and the agencies of cities, [and] counties *and urban county governments* are authorized to establish and operate plans for the payment of retirement, disability or hospitalization benefits to their employes, and hospitalization benefits to the immediate families of their employes. Such a plan may require employes to pay a percentage of their salaries into a fund from which benefits are paid, or the city, county *or urban county government* or agency may pay out of its own funds the entire cost of the benefits. A plan may include a combination of contributions by employes and by the city, county, *or urban county government* or agency into a fund from which benefits are paid, or it may take any form desired by the city, county, *urban county government* or agency. Each city, county *urban county government* or agency may make rules and regulations and do all other things necessary in the establishment and operation of such a plan.

(2) City, county and urban county government employes for whom health insurance is provided by such employer shall be given an option to elect either standard hospitalization coverage or coverage by a health maintenance organization whenever any employe requests such option. Such option shall be made available to all such employes covered by health insurance, regardless of the distance between either the place of residence or work station of such employes and the facilities of a health maintenance organization.

(3) Any plan adopted shall provide that any officer or member of a paid fire or police department who has completed five (5) years or more as a member of the department, but who is unable to perform his duties by reason of heart disease or any disease of the lungs or respiratory tract, is presumed to have contracted his disease while on active duty as a result of strain or the inhalation of noxious fumes, poison or gases, and shall be retired by the pension board under terms of the pension system of which he is a member, if member passed an entrance physical examination and was found to be in good health as required. The term "agency" as used herein shall include boards appointed to operate waterworks, electric plants, hospitals, airports, housing projects, golf courses, parks, health departments, or any other public projects.

The Committee Substitute for **HB 37** is as follows:

HB 37, AN ACT relating to health care for government employes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 18.410 is amended to read as follows:

(1) The commissioner of finance and administration, upon the recommendation of the commissioner of personnel, may procure from one or more life insurance companies, [or from one or more hospitalization insurance companies,] authorized to do business in this state, a policy or policies of group life insurance insuring the lives of all or any class or classes of state employes [, or may procure a policy or policies of group hospitalization insurance covering all or any class or classes of state employes]. The policy or policies shall be approved by the commissioner of insurance and may contain such provisions as he approves whether or not otherwise permitted by the insurance laws. It is intended that life insurance [and hospitalization insurance] may be made available for state employes, except that the procuring [of each] is permissive.

(2) The term "state employe," for purposes of KRS 18.410 to 18.440 *and Section 2 of this Act,* shall mean a person who is regularly employed by any department, board, agency or branch of state government and who is also a contributing member of any one of the retirement systems administered by the state.

(3) The term "premiums," for the purposes of KRS 18.410 to 18.440 *and Section 2 of this Act,* shall mean premiums to be paid on any type of insurance authorized under KRS 18.410 to 18.440 *and Section 2 of this Act.*

SECTION 2. A NEW SECTION OF KRS CHAPTER 18 IS CREATED TO READ AS FOLLOWS:

(1) The term "health maintenance organization" for the purposes of this Section, means a health maintenance organization as defined in KRS 304.38-030 and which has been certified by the department for human resources and licensed by the department of insurance as a health maintenance organization.

(2) The commissioner of the executive department for finance and administration, upon the recommendation of the commissioner of personnel, may procure from one (1) or more hospitalization insurance companies or from one (1) or more health maintenance organizations authorized to do business in this state, a policy or policies of group hospitalization insurance or health maintenance organization coverage encompassing all or any class or classes of state employes. All state employes for whom such hospitalization insurance or health maintenance organization coverage is provided shall annually be given an option to elect either standard hospitalization coverage or coverage by a health maintenance organization. The policy or policies shall be approved by the commissioner of insurance and may contain such provisions as he approves whether or not otherwise permitted by the insurance laws. It is intended that either hospitalization insurance or health maintenance organization coverage may be made available for state employes, except that the procuring of each is permissive.

(3) The premiums may be paid by the policyholder:

(a) wholly from funds contributed by the insured employe, by payroll deduction or otherwise;

(b) wholly from funds contributed by the state or department, board or agency; or

(c) partly from each, except that any premium due for health maintenance organization coverage over the premium amount contributed by the state or department, board or agency for any other hospitalization insurance coverage shall be paid by the employe.

(4) If an employe moves his place of residence or employment out of the service area of a health maintenance organization, under which he has elected coverage, into either the service area of another health maintenance organization or into an area of the state not within a health maintenance organization service area, such employe shall be given an option, at the time of the move or transfer, to elect coverage either by the health maintenance organization into which service area he moves or is transferred or to elect standard hospitalization coverage offered by the employer.

(5) No payment of premium by the state or department, board or agency shall constitute compensation to an insured employe for the purposes of any statute fixing or limiting the compensation of such an employe. Any premium or other expense incurred by the state or department, board or agency shall be considered a proper cost of administration.

(6) The policy or policies may contain such provisions with respect to the class or classes of employes covered, amounts of insurance or coverage for designated classes or groups of employes, policy options, terms of eligibility, continuation of insurance or coverage after retirement, and such other provisions as the commissioner of insurance may approve.

(7). The commissioner of the executive department for finance and administration is authorized to perform all acts necessary or advisable for the purpose of contracting for and maintaining hospitalization insurance and health maintenance organization coverage under the provisions of this Act.

Section 3. KRS 79.080 is amended to read as follows:

(1) The term “health maintenance organization” for the purposes of this Section, means a health maintenance organization as defined in KRS 304.38-030 and which has been certified by the department for human resources and licensed by the department of insurance as a health maintenance organization.

(2) Cities of all classes, [and] counties *and urban-county governments* and the agencies of cities, [and] counties *and urban-county governments* are authorized to establish and operate plans for the payment of retirement, disability, *health maintenance organization coverage,* or hospitalization benefits to their employes, and *health maintenance organization coverage or* hospitalization benefits to the immediate families of their employes. Such a plan may require employes to pay a percentage of their salaries into a fund from which *coverage or* benefits are paid, or the city, county, *urban-county government* or agency may pay out of its own funds the entire cost of the *coverage or* benefits. A plan may include a combination of contributions by employes and by the city, county, *urban-county government* or agency into a fund from which *coverage or* benefits are paid, or it may take any form desired by the city, county, *urban-county government* or agency Each city, county, *urban-county government* or agency may make rules and regulations and do all other things necessary in the establishment and operation of such a plan.

(3) City, county and urban-county government employes for whom hospitalization benefits or health maintenance organization coverage is provided by such employer shall annually be given an option to elect either standard hospitalization benefits or health maintenance organization coverage. It is intended that either hospitalization benefits or health maintenance organization coverage may be made available for employes and their immediate families, except that the procuring of each is permissive. Any premium due for health maintenance organization coverage over the amount contributed by the city, county or urban-county government for any other hospitalization benefit shall be paid by the employe.

(4) If an employe moves his place of residence or employment out of the service area of a health maintenance organization, under which he has elected coverage, into either the service area of another health maintenance organization or into an area of the state not within a health maintenance organization service area, such employe shall be given an option, at the time of the move or transfer, to elect coverage either by

the health maintenance organization into which service area he moves or is transferred or to elect standard hospitalization coverage offered by the employer.

(5) Any plan adopted shall provide that any officer or member of a paid fire or police department who has completed five (5) years or more as a member of the department, but who is unable to perform his duties by reason of heart disease or any disease of the lungs or respiratory tract, is presumed to have contracted his disease while on active duty as a result of strain or the inhalation of noxious fumes, poison or gases, and shall be retired by the pension board under terms of the pension system of which he is a member, if member passed an entrance physical examination and was found to be in good health as required.

(6) The term "agency" as used herein shall include boards appointed to operate waterworks, electric plants, hospitals, airports, housing projects, golf courses, parks, health departments, or any other public project.

HB 451, AN ACT relating to motor vehicle parking authorities in cities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 94 IS CREATED TO READ AS FOLLOWS:

Any city or urban-county government by ordinance may create motor vehicle parking authorities. Such parking authorities shall have the power of acquisition, creation and operation of public street and off-street parking facilities. Such powers shall include, but not be limited to, the powers given to cities, by KRS 93.352 to 93.356 and KRS 94.750. The fees charged need not be limited to the cost of operation and administration but may be for revenue.

SECTION 2. A NEW SECTION OF KRS CHAPTER 94 IS CREATED TO READ AS FOLLOWS:

(1) A city parking authority shall consist of five (5) persons appointed by the mayor without the approval of the city legislative body, to serve as commissioners of the local parking authority. Three (3) of the commissioners who are first appointed shall be designated to serve for terms of one (1), two (2), and three (3) years, respectively, and the remaining two (2) of such commissioners shall be designated to serve for terms of four (4) years each, from the date of their appointment. Appointments to complete unexpired terms of office shall be made in the same manner as the original appointments. The commissioners shall constitute the governing body of the parking authority and shall adopt such by-laws, rules and regulations as are necessary for governing of the authority.

(2) Any member of the board may be removed from office upon a vote of a majority of the members of the governing body of the municipality for inefficiency, neglect of duty, misfeasance, nonfeasance, or malfeasance; after at least ten (10) days written notice of the hearing to the member whose conduct is in question and to all members of the governing body. At the hearing the member may be represented by counsel and may appear personally and present such pertinent evidence as he wishes. If after the hearing the governing body determines that he is guilty of the charges they shall remove the member from the authority within seven (7) days, and there shall be a vacancy of the office.

(3) These five (5) persons are a body corporate constituting a public corporation and a governmental agency within the meaning of KRS 58.010, and shall have all the powers granted by KRS 58.010 to 58.170.

SECTION 3. A NEW SECTION OF KRS CHAPTER 94 IS CREATED TO READ AS FOLLOWS:

The parking authority shall have the power to contract with any city in accordance with the provisions of KRS 93.351 to 93.359, KRS 94.750 and 82.050.

SECTION 4. A NEW SECTION OF KRS CHAPTER 94 IS CREATED TO READ AS FOLLOWS:

Property now used or hereafter acquired for off-street parking by a private operator shall not be subject to condemnation.

SECTION 5. A NEW SECTION OF KRS CHAPTER 94 IS CREATED TO READ AS FOLLOWS:

For the purpose of this Act, the parking authority may rent or lease to any individual, firm or corporation any portion of the premises established as an off-street parking facility for service concessions, commercial uses or otherwise, after first advertising for bids therefor by publication not less than once a week for two consecutive weeks in a newspaper of general circulation in the city; making two publications in all.

SECTION 6. A NEW SECTION OF KRS CHAPTER 94 IS CREATED TO READ AS FOLLOWS:

The city legislative body may fix the compensation of the board members. The compensation of a board member shall not be decreased during the term to which he was appointed.

SECTION 7. A NEW SECTION OF KRS CHAPTER 94 IS CREATED TO READ AS FOLLOWS:

No member or employe of a parking authority shall acquire any interest, direct or indirect, in any project or in any property including or planned to be included in any project, nor shall he have any interest, direct or indirect, in any contract or proposed contract for materials or services to be furnished or used in connection with any project. If any member or employe of any authority owns or controls an interest, direct or indirect in any property included in any project, which interest was acquired prior to his appointment or employment, he shall disclose the same in writing to the authority at the time of his appointment and the disclosure shall be entered upon the minutes of the authority.

Section 8. KRS 94.750 is amended to read as follows:

Any city of the second class *or urban-county government* shall have all the rights, powers and privileges that are given to cities of the first class by KRS 93.352 to 93.356, as amended. In applying such sections to cities of the second class *or urban-county governments*, any powers given by such sections to the director of works of a city of the first class shall be deemed to be given to the board of public works, superintendent of public works, department of public works or commissioner of public works of the city of the second class *or urban-county government*, whichever such city shall have, and condemnation procedure shall be as provided in KRS 94.680 to 94.720 and 104.170.

The Committee Amendment to **HB 451** is as follows:

Amend printed copy of **HB 451,** page 1, line 14 after the word "city" insert "*or urban county government*"

page 1, line 15 after the word "mayor" strike "without" and in lieu thereof insert "*with*"

page 1, line 16 after the word "city" insert "*or urban county government*"

page 2, line 3 after the period at the end of the line insert the following: "*upon expiration of the staggered terms, the successors shall be appointed for a term of four years*"

page 3, line 4 after the word "city" insert "*or urban county government*"

page 3, line 20 after the word "city" remove the colon and insert in lieu thereof "*or urban county government:*"

page 3, line 23 after the word "city" insert "*or urban county government*"

page 4, line 18 after the word "city" strike the following: "of the second class"

page 4, line 22 after the word "cities" strike the following: "of the second class"

page 5, line 1 after the word "city" strike the following: "of the second class"

page 5, line 2 after the word "city" at the end of the line insert "*or urban county government*"

The Committee on Rules reported **HB 24, HB 77, HB 102, HB 116, HB 117, HB 128, HB 151, HB 208, HB 210, HB 239, HB 255, HB 278, HB 287, HB 288, HB 301,** and **SB 102** have been posted for passage in Orders of the Day, February 18, 1976.

The Committee on Rules reported **HB 171** has been recommitted to the Committee on Education.

The Committee on Rules reported **HB 260,** with Committee Amendment attached thereto, has been recommitted to the Committee on State Government.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Education: **HB 352, HB 68, HB 347, HB 296, HB 284, HB 505, HB 4, HB 452, HJR 24.**

Judiciary-Statutes: **SB 110, HB 98, HB 496, HB 497, HB 532.**

Labor and Industry: **HB 187, HB 477, HB 510.**

Appropriations and Revenue: **HB 324.**

The Clerk announced the following bill had been withdrawn from Committee consideration:

Labor and Industry: **HB 132.**

Motions, Petitions and Communications

Representative B. Richardson filed Floor Amendment No. 1 to **HB 151** and Floor Amendment No. 1 to **HB 208.**

Representative Romines moved that the rules be suspended for the purpose of reporting and acting on a Resolution. Agreed.

Representative Romines moved the adoption of the following **HR 53:**

HR 53, A RESOLUTION to adjourn the House of Representatives on Tuesday, February 17, 1976 in memory of Paul Priddy.

WHEREAS, on February 12, the Teamsters Local 89, the Commonwealth of Kentucky and the whole community of man lost a selfless leader when Paul Priddy departed from this life; and

WHEREAS, he strove tirelessly in his community for better facilities and services and left the world a far, far better place than when he found it; and

WHEREAS, the union membership which he served benefitted from his talents and abilities and were rewarded with richer lives than they had ever dreamed of; and

WHEREAS, many people who never knew Paul Priddy are benefactors of his civic involvement, his vision, and his splendid spirit; and

WHEREAS, those who knew him—is family, his colleagues and the many whose lives he touched with his humor, his philanthropy, his nobility of heart will be bereft forevermore;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House adjourn this day in memory, honor, respect and tribute to Paul Priddy.

Section 2. That the Clerk of the House be directed to deliver a copy of this resolution to the widow of Paul Priddy, Mrs. Eunice Stiles Priddy.

Section 3. That the Clerk of the House be directed to deliver a copy of this resolution to the Teamsters Union Local 89.

HR 53 was adopted by voice vote.

Representative McBride moved that his vote be changed from "nay" to "yea" on **HB 269.** Agreed.

Representative Burnette moved the adoption of the following Legislative Citation No. 24:

The House of Representatives of the Commonwealth of Kentucky hereby honors the memory of George Roland Green of Hickman, Kentucky. This body commemorates the past services of Mr. Green as an outstanding Hickman City Manager and citizen of Kentucky. The Commonwealth grieves its loss of a fine Kentuckian and offers consolences to his family in their loss. (Sponsored by Representative Burnette)

Agreed.

Representative Romines moved that the rules be suspended for the purpose of taking a call of the roll to show co-sponsors of **HR 53.** Agreed.

The following members voted to co-sponsor **HR 53:** Ackerson, A. S. Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Bevins, Blair, Blandford, Blume, Blythe, Boatwright, Brinkley, Brown, Burnette, Cooper, Craddock, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Fitzgerald, Floyd, Foster, Givhan, Gray, Guenthner, Hancock, Hardwick, Head, Holloway, Hopkins, Hughes, Imes, Kenton, King, Little, Mann, May, Maynard, McBee, McBride, McGill, Morgan, Morris, Muncy, Nett, O'Brien, Overstreet, Pearl, Priddy, Rattliff, Richards, P. Richardson, Romines, Sale, Schmidt, Siler, Stewart, Tobin, J. Turner, R. Turner, Vincent, Wible, Wooden, Wright, Yates.

Representative Deskins filed Floor Amendments Nos. 2 and 3 to **HB 151.**

Orders of the Day

Representative B. Richardson moved that **HB 261** be recommitted to the Committee on Judiciary-Courts. Agreed.

Representative B. Richardson moved that consideration of **HB 8,** with Committee Substitute attached thereto, and **HB 17** be deferred and that they retain their position in Orders of the Day. Agreed.

HB 29 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Donnermeyer moved that **HB 29** be passed.

On the roll call the vote was yeas 65-B. Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Blair, Blandford, Blume, Blythe, Boatwright, Brinkley, Bruce, Carpenter, Craddock, Cyrus, Dawahare, DeFalaise, Deskins, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Foster, Freeman, Gray, Guenthner, Holbrook, Holloway, Hopkins, Hughes, Imes, Isler, Jones, Kenton, King, LeMaster, Mann, May, Maynard, McBee, McBride, McGill, Morris, Nett, O'Brien, Richards, B. Richardson, Sale, Schmidt, Siemens, Stephens, Stewart, Tobin, Thomas, J. Turner, R. Turner, Vincent, White, Wible, Wright Yates. Nays 21-Ackerson, A. S. Adams, Brown, Burnette, Crupper, Floyd, Gay, Givhan, Hancock, Hardwick, Hurst, Little, Mason, Muncy, Overstreet, Priddy, Rattliff, P. Richardson, Robinson, Siler, Wooden.

HB 29 was passed and the title agreed to.

Representative Donnermeyer moved that the vote by which **HB 29** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 101 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Guenthner moved that **HB 101** be passed.

On the roll call the vote was yeas 77-Ackerson, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blandford, Blume, Boatwright, Brinkley, Brown, Bruce, Carpenter, Cooper, Crupper, Cyrus, Dawahare, DeFalaise, DeMarcus, Denham, Deskins, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Floyd, Freeman, Gay, Givhan, Gray, Guenthner, Hardwick, Head, Hopkins, Hughes, Imes, Isler, Kenton, King, LeMaster, Lindsay, Little, Mann, May, Maynard, McBee, McBride, McGill, Morgan, Morris, Muncy, Nett, O'Brien, Overstreet, Priddy, Rattliff, B. Richardson, P. Richardson, Romines, Sale, Schmidt, Siemens, Siler, Stewart, Thomas, J. Turner, R. Turner, Wells, Wible, Wooden, Wright, Yates. Nays 18-B. Adams, A. S. Adams, Blythe, Burnette, Craddock, Foster, Hancock, Holbrook, Holloway, Jones, Mason, Pearl, Richards, Robinson, Stephens, Tobin, Vincent, White.

HB 101 was passed and the title agreed to.

Representative Guenthner moved that the vote by which **HB 101** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative B. Richardson moved that consideration of **HJR 7** and **HB 34,** with Committee Substitute attached thereto, be deferred and that they retain their position in Orders of the Day. Agreed.

HB 121 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Bennett moved that **HB 121** be passed.

Representative McBride moved that consideration of **HB 121** be deferred and that it retain its position in Orders of the Day. Agreed.

Representative B. Richardson moved that consideration of **HB 262** be deferred and that it retain its position in Orders of the Day. Agreed.

HB 263, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Donnermeyer moved the adoption of the Committee Amendment to **HB 263.** Agreed.

Representative Donnermeyer moved that **HB 263** as amended be passed.

On the roll call the vote was yeas 40-Ackerson, Arnold, Bendl, Bennett, Benson, Bevins, Blandford, Blume, Blythe, Boatwright, Brinkley, Brown, Craddock, Cyrus, Dietz, Donnermeyer, Dunn, Fitzgerald, Foster, Gray, Hancock, Isler, King, LeMaster, Mann, Mason, McBee, McBride, McGill, Morgan, Nett, Pearl, Priddy, Romines, Stephens, Tobin, Thomas, Wible, Wooden, Yates. Nays 51-B. Adams, A. S. Adams, J. Allen, W. Allen, Beshear, Blair, Burnette, Carpenter, Cooper, Crupper, Dawahare, DeFalaise, DeMarcus, Denham, Deskins, Doss, Floyd, Freeman, Gay, Givhan, Guenthner, Hardwick, Head, Holbrook, Holloway, Hopkins, Hughes, Imes, Jones, Kenton, Lindsay, Little, May, Maynard, Morris, Muncy, O'Brien, Overstreet, Rattliff, B. Richardson, P. Richardson, Robinson, Sale, Siemens, Siler, J. Turner, R. Turner, Vincent, Wells, White, Wright.

HB 263, as amended was defeated.

HB 303, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Bennett moved the adoption of the Committee Amendment to **HB 303.** Agreed.

Representative Bennett moved that **HB 303,** as amended, be passed.

Representative Morgan moved that **HB 303,** as amended, be laid on the Clerk's desk.

On the roll call the vote was yeas 42-B. Adams, A. S. Adams, Beshear, Bevins, Blair, Blythe, Boatwright, Brinkley, Brown, Burnette, Carpenter, Cooper, Crupper, Dawahare, Denham, Doss, Foster, Freeman, Holbrook, Hopkins, Isler, Jones, Kenton, Little, Mason, McBee, McBride, Morgan, Morris, Nett, Overstreet, Pearl, Richards, P. Richardson, Schmidt, Stephens, Stewart, Tobin, J. Turner, R. Turner, Wells, Wooden. Nays 36-Ackerson, W. Allen, Arnold, Bendl, Bennett, Benson, Bruce, Craddock, Cyrus, DeMarcus, Deskins, Dunn, Fitzgerald, Floyd, Givhan, Gray, Guenthner, Hancock, Hardwick, Holloway, Hughes, LeMaster, Lindsay, May, Maynard, O'Brien, Priddy, B. Richardson, Robinson, Romines, Sale, Vincent, White, Wible, Wright, Yates.

The motion that **HB 303,** as amended, be laid on the Clerk's desk was adopted.

Representative B. Richardson moved that consideration of **HB 334** be deferred and that it retain its position in Orders of the Day. Agreed.

HB 336 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

On the roll call the vote was yeas 94-Ackerson, B. Adams, A. S. Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blandford, Blume, Blythe, Boatwright, Brinkley, Brown, Bruce, Burnette, Carpenter, Cooper, Craddock, Crupper, Cyrus, Dawahare, DeFalaise, DeMarcus, Denham, Deskins, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Floyd, Foster, Freeman, Givhan, Gray, Guenthner, Hancock, Hardwick, Head, Holbrook, Holloway, Hopkins, Hughes, Hurst, Imes, Isler, Jones, Kenton, King, LeMaster, Lindsay, Little, Mann, Mason, May, Maynard, McBee, McBride, McGill, Morgan, Morris, Muncy, O'Brien, Overstreet, Pearl, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Robinson, Romines, Sale, Schmidt, Siemens, Siler, Stephens, Stewart, Tobin, Thomas, J. Turner, R. Turner, Vincent, Wells, White, Wible, Wooden, Wright, Yates. Nays 0.

HB 336 was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **HB 336** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HCR 37 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Vincent moved that **HCR 37** be adopted.

On the roll call the vote was yeas 86-Ackerson, B. Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blandford, Blythe, Boatwright, Brinkley, Brown, Bruce, Carpenter, Cooper, Craddock, Crupper, Cyrus, Dawahare, DeFalaise, DeMarcus, Denham, Deskins, Dietz, Doss, Dunn, Fitzgerald, Floyd, Foster, Freeman, Givhan, Gray, Guenthner, Hancock, Hardwick, Head, Holbrook, Holloway, Hopkins, Hughes, Imes, Isler, Jones, King, LeMaster, Lindsay, Little, Mason, May, Maynard, McBee, McBride, McGill, Morgan, Morris, Muncy, Nett, O'Brien, Overstreet, Pearl, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Robinson, Romines, Sale, Siemens, Siler, Stephens, Stewart, Tobin, Thomas, J. Turner, R. Turner, Vincent, Wells, White, Wooden, Wright, Yates. Nays 4-Burnette, Mann, Schmidt, Wible.

HCR 37 was adopted and the title agreed to.

Representative Vincent moved that the vote by which **HCR 37** was adopted be reconsidered and said motion be postponed indefinitely. Agreed.

Announcements

The Speaker vacated the Chair.

Representative Imes presiding.

Representative Stephens announced a special meeting of the Committee on Education, Friday, on adjournment, Room 305.

Representative B. Richardson announced **HJR 7** would be the first order of business on February 18, 1976.

A meeting of the Committee on Cities Sub-Committee, February 19, 1976, 11:00 a.m., Room 305A, was announced.

Representative O'Brien filed Floor Amendment No. 1 to Committee Substitute for **HB 34.**

Adjournment

Representative B. Richardson moved that the House adjourn until 2:00 p.m., Wednesday, February 18, 1976.

On the roll call the vote was yeas 72-B. Adams, A. S. Adams, J. Allen, Arnold, Bendl, Benson, Beshear, Bevins, Blair, Blandford, Blume, Blythe, Boatwright, Brinkley, Brown, Burnette, Carpenter, Craddock, Crupper, Cyrus, DeFalaise, DeMarcus, Denham, Dietz, Donnermeyer, Doss, Dunn, Foster, Freeman, Gay, Givhan, Guenthner, Hardwick, Head, Holbrook, Holloway, Hughes, Imes, Isler, Kenton, King, LeMaster, Lindsay, Little, May, Maynard, McBee, McBride, McGill, Morris, Muncy, Nett, O'Brien, Overstreet, Pearl, Rattliff, Richards, Robinson, Romines, Sale, Schmidt, Siemens, Siler, Stephens, Tobin, Thomas, R. Turner, Vincent, White, Wible, Wooden, Yates. Nays 8-Deskins, Fitzgerald, Gray, Hancock, Mann, Priddy, P. Richardson, Wright.

The motion to adjourn was adopted.

WEDNESDAY, FEBRUARY 18, 1976

THIRTY-THIRD LEGISLATIVE DAY

The House was called to order by Speaker Kenton.

Prayer by Reverend Bob Lamb, Baptist Temple, Madisonville, Kentucky.

The roll was called. All present except Representative Clapp.

Representative Isler moved that absent members be granted leave of absence in accordance with the prevailing rules of the House. Agreed.

Representative Hughes moved that the reading of the Journal of February 17, 1976, be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HR 55, by Representatives Gray, Cyrus, Denham, Hughes, Imes, and Morgan: A RESOLUTION directing a study of electrical utility rates in the Commonwealth of Kentucky.

HB 545, by Representative Blume: AN ACT relating to sewer districts.

HB 546, by Representatives Cyrus, Cooper, Gray, Priddy, and Siemens: AN ACT relating to the state fair board.

HB 547, by Representatives Fitzgerald, Arnold, Blair, Blandford, Doss, LeMaster, Vincent, and Wible: AN ACT relating to fees and compensation of public officers and employes.

HB 548, by Representatives Mason and Fitzgerald: AN ACT relating to planning commissions.

HB 549, by Representative B. Richardson: AN ACT relating to revenue and taxation.

HB 550, by Representatives DeFalaise and Guenthner: AN ACT relating to discrimination based on sex.

HB 551, by Representative Beshear: AN ACT relating to sanitary sewer systems.

HB 552, by Representative Morgan: AN ACT relating to hospitalization benefits for retired city and county employes.

HB 553, by Representative Wible: AN ACT relating to gasoline tax revenue.

HB 554, by Representative Clarke: AN ACT relating to Community Colleges.

HB 555, by Representatives Siemens, Fitzgerald, Ackerson, Bennett, Benson, Deskins, Freeman, Gray, Kidd, Kleier, Muncy, Overstreet, Priddy, Romines, and Wooden: AN ACT relating to lifeline utility rates.

Senate Message

Announcing passage of **SB 17, SB 60, SB 65, SB 141, SB 159,** and **SB 167.**

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Natural Resources: **HB 541.**

Business Organizations and Professions: **HB 540.**

Cities: **HB 539, SB 181.**

Education: **HB 537, HR 54.**

Health and Welfare: **HB 535, HB 536.**

Judiciary-Courts: **HB 544.**

Labor and Industry: **HB 533, HB 542.**

Public Utilities and Transportation: **HB 543.**

State Government: **HB 534, HB 538, SB 117.**

Report of Committees

The Committee on Appropriations and Revenue reported **HB 57,** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Ordered referred to the Committee on Rules.

The Committee Substitute to **HB 57** is as follows:

HB 57, AN ACT relating to municipal statute revision.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 82 IS CREATED TO READ AS FOLLOWS:
The purpose of the Municipal Statute Revision Commission shall be to study and review the laws pertaining to cities with a goal toward making them uniform throughout all classes of cities; to establish a continuing survey of the needs of the cities in municipal statute revision; and to publish and make available to public officials compilations of these laws to assist them in the better understanding and effective discharge of their duties to the citizens of the Commonwealth.

SECTION 2. A NEW SECTION OF KRS CHAPTER 82 IS CREATED TO READ AS FOLLOWS:
The Governor shall on or before August 1, 1976 appoint a Municipal Statute Revision Commission composed of a chairman and thirteen (13) members. One (1) member shall be selected from the faculty of each of the following: the University of Kentucky College of Law, the University of Louisville Law School and the Chase Law School of Northern Kentucky State College; one (1) member from a list submitted by the Board of Governors of the Kentucky Bar Association; six (6) members with each being an elected official from a city of the first through the sixth class from a list submitted by the Municipal League; one (1) member from a list submitted by the Municipal Attorneys' Association of Kentucky. The chairman of the house committee and the chairman of the senate committee of the General Assembly, having jurisdiction over municipalities, in the year in which the appointment is to be made, shall also serve as members of the Municipal Statute Revision Commission. In the event that either or both of these persons are unable to serve, or a vacancy occurs, the Governor shall appoint a legislator who was a member of the committee having jurisdiction over municipalities in the General Assembly session preceding the appointment and who was a member of the same chamber as the person who is unable to serve.

SECTION 3. A NEW SECTION OF KRS CHAPTER 82 IS CREATED TO READ AS FOLLOWS:
The members of the commission shall serve for a period of two (2) years. Vacancies in the commission shall be filled by appointment in the same manner as the original appointment, except as provided in Section 2

of this Act.

SECTION 4. A NEW SECTION OF KRS CHAPTER 82 IS CREATED TO READ AS FOLLOWS:
The members of the commission shall serve without pay, but shall receive their reasonable and necessary expenses in connection with the performance of their duties to be paid out of the sum appropriated to the commission.

SECTION 5. A NEW SECTION OF KRS CHAPTER 82 IS CREATED TO READ AS FOLLOWS:
The commission shall constitute an independent agency of state government.

SECTION 6. A NEW SECTION OF KRS CHAPTER 82 IS CREATED TO READ AS FOLLOWS:
The State Property and Buildings Commission shall provide the commission with suitable office space convenient to the State Law Library.

SECTION 7. A NEW SECTION OF KRS CHAPTER 82 IS CREATED TO READ AS FOLLOWS:
The commission shall report periodically to the joint interim committee of the General Assembly having jurisdiction over municipalities and to the Governor during the 1976-78 interim. A comprehensive report with recommendations for statute revision shall be completed on or before November 1, 1977 and submitted to the 1978 General Assembly.

SECTION 8. A NEW SECTION OF KRS CHAPTER 82 IS CREATED TO READ AS FOLLOWS:
The commission shall appoint a Director of Municipal Statute Revision. The Director may employ such persons as may be necessary for the effective operation of the commission. The Director may accept the voluntary services of interested citizens who shall serve without pay, but who shall receive their reasonable and necessary expenses to be paid out of the sum appropriated to the commission.

Section 9. To carry out the purpose of this Act, there is appropriated to the Municipal Statute Revision Commission out of the General Fund in the State Treasury the sum of two hundred ninety-four thousand three hundred and eighty dollars ($294,380) for the fiscal year of 1976-77 and the sum of two hundred ninety-five thousand six hundred dollars ($295,600) for the fiscal year of 1977-78.

The Committee on Appropriations and Revenue reported **HB 280** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 280, AN ACT relating to the funding of state professional and occupational license boards and commissions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. All unexpended and unencumbered funds on deposit in the general administrative trust and agency accounts of the following boards and commissions on June 30, 1978, shall be transferred to the General Fund of the State Treasury: the State Board of Accountancy, the State Board of Examiners and Registration of Architects, the Kentucky Board of Barbering, the Kentucky Board of Hairdressers and Cosmetologists, the State Board of Podiatry, the Kentucky State Board of Chiropractic Examiners, the Kentucky Board of Dentistry, the State Board of Embalmers and Funeral Directors, the State Board of Registration for Professional Engineers and Land Surveyors, the Board of Nursing Education and Nurse Registration, the Kentucky Board of Ophthalmic Dispensers, the Kentucky Board of Optometric Examiners, the Kentucky Board of Pharmacy, the State Board of Physical Therapy, the Board of Examiners of Psychologists, the State Real Estate Commission, the Kentucky Board of Veterinary Examiners, the Kentucky Board of Examiners in Watchmaking, the State Board of Auctioneers, the State Board of Business Schools, the State Board of Examiners and Registration of Landscape Architects, the State Board of Medical Licensure, the State Board of Examiners of Speech Pathology and Audiology, the Kentucky Board of Licensure for Nursing Home Administrators, the Kentucky Board for Licensing Hearing Aid Dealers and the State Board of Examiners of Social Work of Kentucky.

Section 2. A new section of KRS Chapter 311 is created to read as follows:
All fees, charges and other monies received by the board pursuant to the provisions of this chapter shall be credited to the General Fund of the state treasury. The compensation of the members and all employes of the board and all expenses incurred by the board shall be paid out of the General Fund of the state treasury.

Section 3. A new section of KRS Chapter 312 is created to read as follows:

All fees, charges and other monies received by the board pursuant to the provisions of this chapter shall be credited to the General Fund of the state treasury. The compensation of the members and all employes of the board and all expenses incurred by the board shall be paid out of the General Fund of the state treasury.

Section 4. A new section of KRS Chapter 316 is created to read as follows:

All fees, charges and other monies received by the board pursuant to the provisions of this chapter shall be credited to the General Fund of the state treasury. The compensation of the members and all employes of the board and all expenses incurred by the board shall be paid out of the General Fund of the state treasury.

Section 5. A new section of KRS Chapter 323 is created to read as follows:

All fees, charges and other monies received by the board pursuant to the provisions of this chapter shall be credited to the General Fund of the state treasury. The compensation of the members and all employes of the board and all expenses incurred by the board shall be paid out of the General Fund of the state treasury.

Section 6. A new section of KRS Chapter 323A is created to read as follows:

All fees, charges and other monies received by the board pursuant to the provisions of this chapter shall be credited to the General Fund of the state treasury. The compensation of the members and all employes of the board and all expenses incurred by the board shall be paid out of the General Fund of the state treasury.

Section 7. A new section of KRS Chapter 328 is created to read as follows:

All fees, charges and other monies received by the board pursuant to the provisions of this chapter shall be credited to the General Fund of the state treasury. The compensation of the members and all employes of the board and all expenses incurred by the board shall be paid out of the General Fund of the state treasury.

Section 8. KRS 216A.110 is amended to read as follows:

(1) The board shall prescribe and collect reasonable fees and charges for processing applications, examinations and issuance of licenses, including renewals.

(2) All fees and charges collected under the provisions of this chapter shall be paid into the *General Fund of the* state treasury. *The compensation of the members and all employes of the board and all expenses incurred by the board shall be paid out of the General Fund of the state treasury.* [and credited to a trust and agency fund to be used by the board in defraying the cost and expenses in the administration of this chapter.]

Section 9. KRS 311.450 is amended to read as follows:

(1) Every license issued for the practice of podiatry shall expire on June 30 following the date of issuance unless sooner revoked and canceled.

(2) On or before June 1 of each year, the board shall send notices to all licensed podiatrists in this state, at their last known addresses, advising them that the annual license renewal fee is due on July 1 of each year. Every registered podiatrist shall renew his license on or before July 1 of each year by the payment to the board of an annual license renewal fee which shall be a reasonable fee set by regulation of the board and upon submission of a statement of compliance with the continuing education regulations set by the board. If such renewal fee is not paid or such statement of compliance is not submitted on or before July 1, the board shall notify the delinquent licensee by mail at his last known address that such fee and statement are past due and that a delinquent penalty fee is assessed, in addition to the renewal fee and that the renewal fee and penalty must be paid and the statement of compliance submitted on or before January 1. If such fees, penalties and statement are not submitted by January 1, it shall be the duty of the board to suspend or revoke the license for nonpayment of the annual renewal and delinquent fees or for failure to submit the statement of compliance for the current year.

(3) All fees collected under the provisions of KRS 311.380 to 311.510, or the rules and regulations adopted pursuant thereto, shall be *credited to the General Fund of the state treasury. The compensation of the members and all employes of the board and all expenses incurred by the board shall be paid out of the General Fund of the state treasury.* [paid into the state treasury, and credited to a trust and agency fund to be used in defraying the costs and expenses in the administration of KRS 311.380 to 311.510 including, but not limited to, salaries and necessary travel expenses. No part of this fund shall revert to the general funds of the commonwealth.]

Section 10. KRS 313.350 is amended to read as follows:

[(1)] All fees imposed and collected under the provisions of KRS 313.040 to 313.470 shall be *credited to the General Fund of the state treasury.* [paid to the secretary-treasurer of the board and shall be deposited in the state treasury to the credit of a revolving fund for the exclusive use of the board.] All disbursements by the board in the transactions of its business and in the enforcement of the provisions of this chapter shall be paid out of *the General Fund of the state treasury.* [such revolving fund as claims against the state in accordance with the provisions of KRS chapter 45.]

[(2) The board may establish a petty cash fund not to exceed $1,000 for the purpose of making disbursements requiring prompt cash outlay, and to carry out the provisions of KRS 45.360 applying to the delegation of authority to purchase.]

Section 11. KRS 314.161 is amended to read as follows:

All fees received by the board and collected under KRS 314.041 and 314.071 shall be *credited to the General Fund of the state treasury. The compensation of the members and all employes of the board and all expenses incurred by the board shall be paid out of the General Fund of the state treasury.* [deposited with the state treasurer of the commonwealth of Kentucky, who shall place the money to the credit of the revolving fund of the board. The fund shall be held subject to the order of the board, and to be used for meeting necessary expenses incurred in the performance of the purposes of KRS 314.011 to 314.161 and 314.991 and the duties imposed thereby.]

Section 12. KRS 315.195 is amended to read as follows:

All license fees, permit fees and charges, and other moneys collected by the board, under the provisions of this chapter, and the rules and regulations of the board adopted hereunder, shall be *credited to the General Fund of the state treasury. The compensation of the members and all employes of the board and all expenses incurred by the board shall be paid out of the General Fund of the state treasury.* [paid into the state treasury and credited to a trust and agency fund to be used by the board in carrying out the provisions of this chapter. No part of this fund shall revert to the general fund of the commonwealth. All moneys held in a trust and agency fund or other fund to the credit of the board for the administration and enforcement of this chapter on June 16, 1966, are hereby transferred to the trust and agency fund herein created.]

Section 13. KRS 317.530 is amended to read as follows:

(1) All fees and charges collected by the barber board shall be *credited to the General Fund of the state treasury.* [paid into the state treasury and credited to a separate revolving or trust and agency account established for the purpose of administering the provisions of this chapter as it relates to the barber board.] The cost and expenses of administering the provisions of this chapter including compensation to members of the board and their officers and employes shall be paid out of the *General Fund of the* state treasury upon warrants of the commissioner of the executive department for finance and administration according to law [provided that the total expense of administering these provisions shall not exceed the fees and other charges collected by the board and available in the revolving or trust and agency fund account of the Kentucky board of barbering].

[(2) All fees and charges collected by the board shall be available for the administration of the provisions of this chapter as it relates to the board, and for no other purpose.]

Section 14. KRS 317A.080 is amended to read as follows:

[(1)] All fees and charges collected by the cosmetologist board shall be *credited to the General Fund of the state treasury.* [paid into the state treasury and credited to a separate revolving or trust and agency fund account established for the purpose of administering the provisions of this chapter as it relates to the cosmetologist board.] The cost and expenses of administering the provisions of this chapter including compensation to members of the board and its officers and employes shall be paid out of the *General Fund of the* state treasury upon warrants of the commissioner of the executive department for finance and administration according to law. [provided that the total expense of administering these provisions shall not exceed the fees and other charges collected by the board and available in the revolving or trust and agency fund account of that board;]

[(2) All fees and charges collected by the board shall be available for the administration of the provisions of this chapter as it relates to the board, and for no other purpose.]

Section 15. KRS 319.131 is amended to read as follows:

All fees received by the board of examiners under this chapter shall be *credited to the General Fund of the state treasury. The compensation of the members and all employes of the board and all expenses incurred by the board shall be paid out of the General Fund of the state treasury.* [placed in the state treasury to the credit of a trust and agency fund for the use of the board in carrying out its functions.]

Section 16. KRS 320.360 is amended to read as follows:

All fees imposed and collected under the provisions of this chapter shall be *credited to the General Fund of the state treasury. The compensation of the members and all employes of the board and all expenses* *incurred by the board shall be paid out of the General Fund of the state treasury.* [paid to the secretary-treasurer of the board for the use of the board, and shall be deposited in the state treasury to the credit of an agency fund for the use of the board. The board may make such expenditures from the fund as may, in the opinion of the board, serve to further the purposes of this chapter, including payment for provisional services.]

Section 17. KRS 321.320 is amended to read as follows:

All fees and other moneys received by the board pursuant to the provisions of this chapter shall be *credited to the General Fund of the state treasury.* [paid to the secretary-treasurer of the board for the use of the board and shall be deposited in the state treasury to the credit of a revolving fund for the use of the board. No part of this revolving fund shall revert to the general funds of this commonwealth.] The compensation of members of the board and secretary-treasurer of the board and all of the employes of the board and all expenses incurred by the board shall be paid *out of the General Fund of the state treasury.* [from this revolving fund. No such compensation or expenses shall be charged against the general funds of this commonwealth.] The board shall file an annual report of its activities with the governor and such report shall include a statement of all receipts and disbursements.

Section 18. KRS 322.420 is amended to read as follows:

(1) All applications for licensing and registration as a land surveyor shall be made upon forms to be provided by the board and shall be signed and sworn to by the applicant. In addition to such other information as the board may require, all applications shall contain a statement of the applicant's educational attainments and record of experience. References shall be furnished therein to not less than five (5) persons possessing direct personal knowledge of the experience and work done by the applicant, at least three (3) of whom shall be registered land surveyors. Applications shall be filed with the secretary to the board and shall be accompanied by an application fee, to be fixed by the board, in an amount not to exceed $50.00. In the event that the board shall, for good cause, deny the application, the fee accompanying the same shall be retained by the board to cover the cost of investigation and processing the same.

(2) Licenses for land surveyors shall expire on the last day of June of each year. All certificates shall be renewed upon the payment to the board, not to exceed the sum of $10.00 Any person previously licensed who shall fail to obtain a renewal of his license on or prior to July 1st shall be automatically suspended from the further practice of land surveying. Any licensed land surveyor whose license has expired or who has been suspended from the practice by action of the board may be reinstated upon such conditions as the board may by regulation prescribe, including the payment of such additional fees as may be provided in such regulations.

(3) All fees paid to and collected by the board under the provisions of this section shall be *credited to the General Fund of the state treasury. The compensation of the members and all employes of the board and all expenses incurred by the board shall be paid out of the General Fund of the state treasury.* [deposited in a depository designated by board and disbursed only at the direction of the board.] The officer or employe of the board who shall be designated to collect and disburse the funds [represented by such fees] shall be required to execute a bond, with corporate surety, in an amount to be determined by the board and reasonably calculated to cover the aggregate of [such] fees *collected by the board* for a period of one (1) year.

Section 19. KRS 324.286 is amended to read as follows:

Except for the fees and charges paid by the licensees to the commission and deposited in the real estate education, research and recovery fund, all fees and charges collected by the commission under the provisions of this chapter shall be paid into the general fund in the state treasury. All expenses incurred by the commission under the provisions of this chapter, including compensations to members, secretaries, clerks, and assistants, except those expenses designated for payment out of the real estate education, research and recovery fund, shall be paid out of the general fund in the state treasury upon warrants of the *commissioner of the executive department for finance and administration* [director of finance] as warrants generally are required to be drawn by the statutes governing such respective offices from time to time, when vouchers therefor are exhibited and approved by the commission [; Provided, That the total expense for every purpose incurred shall not exceed the total fees, charges, fines, and penalties imposed under the provisions of this chapter and paid into the state treasury]. All expenses incurred by the commission and designated for payment out of the real estate education, research and recovery fund, including payments to aggrieved parties and the expenses of carrying on the educational and research requirements of KRS 324.410, shall be paid out of the real estate education, research and recovery fund in the same manner as required in this section for payments out of the general fund: Provided, That the total expenses and payments for every purpose incurred and designated for payment out of the real estate education, research and recovery fund shall not exceed the total fees, charges and interest received by the commission and paid into the real estate education, research and recovery fund of the state treasury.

Section 20. KRS 325.250 is amended to read as follows:

All fees and other moneys received by the board pursuant to the provisions of KRS 325.220 to 325.440 shall be *credited to the General Fund of the state treasury.* [paid to the treasurer of the board for the use of the board, and shall be deposited in the state treasury to the credit of a revolving fund for the use of the board. No part of this revolving fund shall revert to the general funds of this state.] The compensation provided by KRS 325.220 to 325.440 and all expenses incurred under KRS 325.220 to 325.440 shall be paid *out of the General Fund of the state treasury.* [from this revolving fund. No such compensation or expense shall be a charge against the general funds of this state.] The board shall file an annual report of its activities with the governor, and such report shall include a statement of all receipts and disbursements.

Section 21. KRS 326.120 is amended to read as follows:

All fees imposed and collected under the provisions of this chapter shall be *credited to the General Fund of the state treasury. The compensation of the members and all employes of the board and all expenses incurred by the board shall be paid out of the General Fund of the state treasury.* [paid to the secretary-treasurer of the board for the use of the board, and shall be deposited in the state treasury to the credit of an agency fund for the use of the board.]

Section 22. KRS 327.080 is amended to read as follows:

All fees collected by the board shall be paid into the *General Fund of the* state treasury [and credited to an account for the payment of all lawful expenses of the board]. Each member of the board shall be entitled to a per diem of $30.00 and his reasonable expenses for attending each meeting of the board, and the board may employ such personnel and purchase such materials and supplies as [it] may *be* [deem] necessary for the proper discharge of its duties, all of which shall be paid *out of the General Fund of the state treasury.* [for out of the account hereby created, on vouchers certified by the chairman.]

Section 23. KRS 330.050 is amended to read as follows:

(1) There is hereby created a board of auctioneers. The governor shall, upon June 14, 1962, appoint a board consisting of three (3) members, each of whom immediately prior to the date of his appointment has been a resident of the commonwealth of Kentucky for five (5) years, and whose vocation for a period of at least five (5) years has been that of an auctioneer. One (1) member shall be appointed for a term of one (1) year; one (1) member shall be appointed for a term of two (2) years; one (1) member shall be appointed for a term of three (3) years. Each member shall serve until his successor is appointed and qualified. Thereafter, the term of the members of the board shall be for three (3) years and until their successors are appointed and qualified. Members to fill vacancies shall be appointed for the unexpired term.

(2) At no time shall there be more than two (2) members of the same political faith on the board. Whenever there is a vacancy on the board, the Kentucky Auctioneer Association shall recommend to the governor at least three (3) names for each vacancy and the appointment or appointments shall be made from the recommendations of the association.

(3) The board, immediately upon qualification of the member appointed in each year, shall organize by selecting from its members a chairman.

(4) Each member of the board shall receive the sum of twenty-five ($25.00) per day as full compensation for each day actually spent on the work of the board and his actual and necessary expenses incurred in the performance of duties pertaining to his office.

(5) The board shall have full authority to employ, and discharge, a secretary and such other personnel as may be necessary to administer and enforce the provisions of this chapter, and it shall outline the duties and fix the compensation of such persons, which compensation shall be comparable to the salaries paid other state employes doing similar work. The board shall obtain office space, furniture, stationery and any other proper supplies and conveniences reasonably necessary to carry out the provisions of this chapter.

(6) All fees and charges collected by the board under the provisions of this chapter shall be *credited to the General Fund of the state treasury. The compensation of the members and all employes of the board and all expenses incurred by the board shall be paid out of the General Fund of the state treasury.* [paid into the state treasury through the department of finance and shall be credited to an agency-fund account for the board of auctioneers under the provisions of KRS 45.140 and shall be withdrawn or as provided in that section. The total expenses for all purposes and obligations of the board shall not exceed the total fees, charges, fines and penalties imposed under the provisions of this chapter and paid into the state treasury.] The board [shall be financially self-sustaining, and if funds permit it] may underwrite [, within its financial limitations,] educational programs for the enlightenment and benefit of all auctioneers and apprentice auctioneers who have paid fees pursuant to this chapter.

(7) The board shall annually publish a list of the names and addresses of all auctioneers and apprentice auctioneers licensed by it pursuant to this chapter. This list shall also contain the names of all persons whose licenses have been suspended or revoked within the preceding year, as well as any other information relative

to the enforcement of the provisions of this chapter that the board may deem of interest to the public.

Section 24. KRS 331.070 is amended to read as follows:

(1) Every license issued for the operation of an independent business school shall expire on September 30 following the date of issuance unless sooner revoked and canceled.

(2) Between August 15 and September 1 of each year, the board shall send notices to all licensed independent business schools in this state advising them that the annual license renewal fee is due on October 1 of each year. Every licensed independent business school shall renew its license between September 1 and October 1 of each year by the payment to the board of an annual license renewal fee of twenty-five dollars ($25.00). If such renewal fee is not paid on or before October 1, the board shall notify the delinquent licensee by registered or certified mail that such fee is due and unpaid and that delinquent penalty of fifty dollars ($50.00) is assessed in addition to the renewal fee of twenty-five dollars ($25.00) and must be paid on or before January 1. If such fees and penalties are not paid by January 1 the board shall suspend or revoke said license for nonpayment of annual renewal and delinquent fees for the current year.

(3) Every license issued to an agent shall expire on September 30 following the date of issuance unless sooner revoked or canceled.

(4) Between August 15 and September 1 of each year, the board shall send notices to all licensed agents advising them that the annual license renewal fee is due on October 1 of each year. Every licensed agent shall renew his license between September 1 and October 1 of each year by the payment to the board of an annual license renewal fee of five dollars ($5.00) for each license held. If such renewal fee or fees are not paid on or before October 1, the board shall notify the delinquent licensee by certified or registered mail that such fee or fees are due and unpaid and that a delinquent penalty of ten dollars ($10.00) for each license held is assessed in addition to the renewal fee of five dollars ($5.00) and must be paid on or before January 1. If such fees and penalties are not paid by January 1, the board shall revoke said license or licenses for nonpayment of annual renewal and delinquent fees for the current year.

(5) All fees collected under the provisions of this chapter or the rules and regulations adopted pursuant to this chapter shall be *credited to the General Fund of the state treasury. The compensation of the members and all employes of the board and all expenses incurred by the board shall be paid out of the General Fund of the state treasury.* [paid into the state treasury and credited to a trust and agency fund to be used in defraying the cost and expenses of the administration of this chapter, including, but not limited to, salaries and necessary expenses. No part of this fund shall revert to the general funds of the commonwealth.]

Section 25. KRS 334.160 is amended to read as follows:

(1) Within thirty (30) days after its appointment by the governor, the first board shall meet in the city of Frankfort. Thereafter, the board shall meet at least once a year at times and places to be designated by the board and upon such notice as the board may prescribe. At its first meeting the board shall elect a chairman, vice-chairman, and secretary-treasurer, each to serve in his respective capacity for one (1) year, and thereafter said officers shall be elected annually.

(2) The board shall keep a record of all of its proceedings and transactions and shall annually make a report to the governor showing all receipts and disbursements and a summary of all business transacted during the year.

(3) Fees, charges and other moneys collected by the board shall be *credited to the General Fund of the state treasury. The compensation of the members and all employes of the board and all expenses incurred by the Board shall be paid out of the General Fund of the state treasury.* [paid into the state treasury and credited to a trust and agency fund to be used to pay expenses in administering this chapter.] All moneys shall be received, disbursed and accounted for by the secretary-treasurer, who shall be bonded at the expense of the board. [All moneys not expended by the board to pay expenses in administering this chapter shall be retained by the board from year to year to be expended for the purposes expressed in this chapter.]

(4) Each member of the board shall be paid a reasonable sum, not to exceed twenty-five dollars ($25.00) per day, for each day of actual service on the board and shall be reimbursed all reasonable and necessary travel expenses.

Section 26. KRS 334A.120 is amended to read as follows:

All moneys received by the board under this chapter shall be *credited to the General Fund of the state treasury. The compensation of the members and all employes of the board and all expenses incurred by the board shall be paid out of the General Fund of the state treasury.* [paid to the secretary of the board. All moneys shall be deposited in the state treasury into a separate trust fund for the board. The board shall be financed solely and individually from income accruing to it from fees, licenses, and other charges collected by the board and all such moneys are hereby appropriated to the board.] All salaries and expenses shall be paid as budgeted after budgets have been approved by the state budget commission or within the limitations of any appropriation for that purpose which *shall* [may] be included in the general appropriations act.

Section 27. KRS 335.140 is amended to read as follows:

All fees *and other charges received by the board under this chapter shall be credited to the General Fund of the state treasury. The compensation of the members and all employes of the board and all expenses incurred by the board shall be paid out of the General Fund of the state treasury.* [deposited in the state treasury and credited to a separate trust and agency account for the board. The moneys so deposited shall be used to finance the board, and are hereby appropriated to the board. All salaries and expenses shall be paid as budgeted after budgets have been approved by the state budget commission or within the limitations of any appropriation for that purpose which may be included in the general appropriations act.]

Section 28. The effective date of this Act is June 30, 1978.

The Committee on Business Organizations and Professions reported **HB 258** with Committee Amendment attached thereto, **HB 368** with Committee Amendment attached thereto, and **HB 396** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 258, AN ACT relating to public accountants.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 325.220 is amended to read as follows:

As used in this Chapter, unless the context requires otherwise:

(1) The term "board" [when used in KRS 325.220 to 325.440] means the state board of accountancy created by KRS 325.230.

(2) The term "state" [when used in KRS 325.220 to 325.440] includes and means any state, territory or insular possession of the United States, or the District of Columbia.

(3) The term "public accountant" [when used in KRS 325.220 to 325.440] means a public accountant issued a permit to practice by the state of Kentucky [under the public accounting act of 1946 as amended].

(4) "The practice of public accountancy" means the holding of one's self out to the public as skilled in the knowledge, science and practice of accounting; as qualified and ready to render professional services therein for compensation, and the performing of such work as an accountant for more than one person or entity on a fee basis, in any of the following services: auditing, devising and installing accounting systems; recording and presentation of financial information or data; verification of accounts; provided, that other services, including the selling and installing of computers and bookkeeping equipment and forms, the preparation of tax returns, the rendering of routine bookkeeping functions through the use of computers and other machinery, and the performance of bookkeeping services only shall not be construed as the practice of public accountancy if no representation is made that the person performing such services is an accountant who is registered.

(5) "The practice of public accountancy with the attest function" means the preparing or rendering of accounting opinions on financial statements, schedules, reports or exhibits for publication, credit purposes, use in courts of law or equity and for other purposes involving third parties.

(6) "Bookkeeping" means the recording of financial transactions in books of record.

Section 2. KRS 325.230 is amended to read as follows:

(1) There is hereby created a state board of accountancy in and for the state of Kentucky. The board shall consist of *seven (7)* [five (5)] members, appointed by the governor. *Three (3) members shall be certified public accountants, three (3) members shall be public accountants and one (1) member shall be a member of the public. In any matter exclusively concerning or dealing with a certified public accountant only the members of the board who are certified public accountants and the representative of the public shall act; in any matter exclusively concerning or dealing with a public accountant only the public accountant members of the board and the public representative shall act; in all other matters the full board shall act.* [Whenever an appointment is to be made the Kentucky society of certified public accountants shall submit to the governor the names of three (3) persons for each vacancy to be filled. All persons recommended must be qualified for membership on the board, and the governor shall appoint one (1) of the three (3).] Members of the board shall be citizens of the United States and residents of this state. *Sixty (60) days from the effective date of this Act the terms of office for the members of the present board shall expire and the governor shall appoint the members of the board based upon the composition of the board established by this subsection* [who hold certified public accountant certificates issued under the laws of this state and who are in active practice as certified public accountants. The members of the board first to be appointed shall hold office], one (1) for one (1) year, *three*

(3) [one (1)] for two (2) years, and *three (3)* [one (1)] for three (3) years from the effective date of *this Act* [KRS 325.220 to 325.440], the term of each to be designated by the governor. [On July 1, 1968, two (2) additional members shall be appointed, one (1) for a one (1) year term and one (1) for a two (2) year term.] Succeeding appointments to the board shall be for a term of three (3) years. Vacancies occurring during a term shall be filled by appointment for the unexpired term. Upon the expiration of his term of office a member shall continue to serve until his successor shall have been appointed and shall have qualified. The governor shall remove from the board any *accountant* member whose permit to practice is not renewed or which has become void, revoked or suspended, and may, after hearing, remove any member of the board for neglect of duty or other just cause.

(2) Each member of the board shall be paid *fifty dollars ($50)* [thirty-five dollars ($35.00)] for each day spent in the discharge of his official duties and shall be reimbursed for his actual and necessary expenses therein incurred.

Section 3. KRS 325.261 is amended to read as follows:

The certificate of "certified public accountant" shall be granted by the board to any person:

(1) Who is a resident of this state or who has a place of business or is employed therein, and

(2) Who has attained the age of eighteen (18) years, and who is of good moral character, and

(3) Who possesses the educational and experience requirements below:

(a) A baccalaureate degree conferred by a college or university recognized by the board with a major or concentration program in accounting or its equivalent, and two (2) years of public accounting experience of a quality satisfactory to the board, including participation in the examination of financial statements for third-party reliance, in the employ of a public accountant as defined in KRS 325.220 or a certified public accountant of any state, or

(b) A master's degree in accounting or business administration conferred by a college or university recognized by the board, with the equivalent of a major or concentration program in accounting at either the graduate or undergraduate level, and one (1) year of public accounting experience of a quality satisfactory to the board, including participation in the examination of financial statements for third-party reliance, in the employ of a public accountant as defined in KRS 325.220 or a certified public accountant of any state, or

(c) A baccalaureate degree conferred by a college or university recognized by the board, and three (3) years of public accounting experience of a quality satisfactory to the board, including participation in the examination of financial statements for third-party reliance, in the employ of a public accountant as defined in KRS 325.220 or a certified public accountant of any state, or

(d) Until six (6) years after July 1, 1968, a graduate of a high school and six (6) years of public accounting experience of a quality satisfactory to the board, including the participation in the examination of financial statements for third-party reliance, in the employ of a public accountant as defined in KRS 325.220, or a certified public accountant of any state, or

(e) Who holds a permit to practice as a public accountant as defined in KRS 325.220, and

(f) The experience requirement of paragraph (a) or (b) of this subsection may be satisfied by four (4) years' experience as a field audit agent in the internal revenue service *or the Kentucky Department of Revenue, or as a Public Accounts Auditor in the Kentucky Auditor of Public Accounts office. In the case of experience gained with the Internal Revenue Service or the Kentucky Department of Revenue,* [of which] two (2) years *experience shall be* [is] at the journeyman level (presently GS-11 or its future equivalent) in auditing financial statements and supporting materials of three (3) or more distinct lines of commercial or industrial businesses to determine the reliability and fairness of the financial reporting and compliance with generally accepted principles and applicable laws and government regulations. The board shall be the sole and final judge of the qualification of experience under this section.

(g) The experience requirement of paragraph (c) of this subsection may be satisfied by five (5) years' experience as a field audit agent of the internal revenue service *or the Kentucky Department of Revenue, or as a Public Accounts Auditor in the Kentucky Auditor of Public Accounts office. In the case of experience gained with the Internal Revenue Service or the Kentucky Department of Revenue,* [of which] three (3) years *experience shall be* [is] at the journeyman level (presently GS-11 or its future equivalent) in auditing financial statements and supporting material of three (3) or more distinct lines of commercial or industrial businesses to determine the reliability and fairness of the financial reporting and compliance with generally accepted accounting principles and applicable laws and government regulations. The board shall be the sole and final judge of the qualification of experience under this section.

(4) Who shall have successfully passed a written examination in accounting and auditing, and in such other related subjects as the board may deem advisable.

(5) Application for a certificate of certified public accountant shall be made on a form prescribed by the board. The board may set a fee for the issuance of a certificate not to exceed $25.00.

Section 4. KRS 325.290 is amended to read as follows:

Any individual who has received from the board a certificate of "certified public accountant" and who holds an annual permit to practice issued under KRS 325.330 shall be styled and known as a "certified public accountant" and may also use the abbreviation "CPA." The board shall keep a list of certified public accountants. [Any certified public accountant may also be known as a "public accountant."]

Section 5. KRS 325.310 is amended to read as follows:

(1) Registration as a "public accountant" shall be granted by the board to any person who is a resident of this state or who has a place of business or is employed therein and is at least eighteen (18) years of age; and

(a) Holds a baccalaureate or graduate degree conferred by a college or university recognized by the board and has satisfactorily completed such semester hours in accounting, business administration, economics and such other related subjects as the board shall by regulation determine to be appropriate; or

(b) Has successfully completed a written examination in theory of accounts, practical accounting, auditing, commercial law as it affects accountancy, taxation and such other related subjects as the board may elect. The examination shall adhere to the standards established by the National Society of Public Accountants. The board shall charge each candidate a fee not to exceed one hundred dollars ($100) for the initial examination. This fee shall be payable by the candidate at the time prescribed by regulation of the board. Should the candidate fail to pass the examination, re-examination may be given to the same candidate for an additional fee not to exceed twenty dollars ($20) for each subject or part thereof in which the candidate is examined.

(2) The board may grant registration as a "public accountant" without examination to any person who makes application for such to the board within eighteen (18) months from the effective date of this Act and who, on the effective date of this Act is a resident of Kentucky or who has a place of business or employed therein and is at least eighteen (18) years of age and who presents evidence satisfactory to the Board that the applicant:

(a) Has successfully completed at least fifteen (15) hours of accounting at a vocational, correspondence, technical or other school above the high school level approved by the board and has been actively engaged in the practice of public accounting for at least four (4) years immediately preceeding his application; or

(b) Has been employed for at least two (2) years in the office of a certified public accountant; or

(c) Has been employed by a registered public accountant for at least two (2) years and subsequent to such employment has been actively engaged in the practice of public accounting for at least four (4) years immediately preceding his application; or

(d) Has been employed as a field audit agent of the Internal Revenue Service or the Kentucky Department of Revenue, or as a public accounts auditor in the Kentucky Auditor of Public Accounts office; or

(e) Has acquired such other experience or educational qualifications as may be found equivalent to paragraphs (a), (b), (c), or (d) of subsection (2) of this section by the board.

(f) No person who has been found in violation of any of the provisions of KRS 325.340 shall be granted a license under the provisions of subsection (2) of this section.

(3) Any person who is eligible for registration as a public accountant under the provisions of subsection (2) of this section and who, on the effective date of this Act, is serving in the armed forces of the United States may make application for registration within twelve (12) months after receiving an honorable discharge from the armed forces.

(4) Any person who, on the effective date of this Act, is registered by the board as a public accountant, and whose registration is in full force and effect, shall be registered as a public accountant under the provisions of this Act without having to make additional application.

(5) Application for registration as a public accountant shall be made on forms prescribed by the board. The board may set a fee for the issuance of such registration not to exceed fifty dollars ($50).

[(1) Any person who is a resident of this state, or has a place of business, or is employed therein, and who has attained the age of twenty-one (21) years, and who is of good moral character, and who meets the requirements of paragraphs (a) or (b) or (c) of this subsection, may register as a public accountant with the board on or before the first day of July, 1946.

(a) Persons who held themselves out to the public as public accountants and who were engaged within this state on June 19, 1946 in the practice of public accounting as their principal occupation.

(b) Staff accountants employed by certified public accountants or by public accountants and regularly assigned to accounting engagements on June 19, 1946.

(c) Persons serving in the armed forces of the United States or any of the United Nations who immediately prior to entering such service held themselves out to the public as public accountants and were engaged in the practice of public accounting as their principal occupation, or who were employed as staff accountants by certified public accountants or by public accountants and regularly assigned to accounting engagements. In the case of any such person serving in the armed forces of the United States or any of the

United Nations on June 19, 1946, the time for registration shall be extended for a period of twelve (12) months from the time such person is honorably discharged from such service.

(2) The board shall in each case determine whether the applicant is eligible for registration. Any individual who is so registered and who holds a permit issued under KRS 325.330 shall be styled and known as a "public accountant."]

Section 6. KRS 325.330 is amended to read as follows:

Permits to engage in the practice of public accounting in this state shall be issued by the board to holders of a certificate as "certified public accountant" issued under KRS 325.261 to 325.290, *to holders of a registration as a "public accountant" issued under KRS 325.310* and to individuals and partnerships registered under KRS 325.280 and 325.320, after the payment by each such certificate holder, individual or partnership of an annual permit fee to be fixed by the board not to exceed *fifty dollars ($50)* [thirty dollars ($30.00)]. All permits shall expire on the first day of July of each year, but may, annually, be renewed for a period of one (1) year by certificate holders and registrants in good standing upon the payment of a fee for renewal as herein provided. The renewal fee is due on or before the expiration date of the holder's permit, but failure to renew a permit before expiration thereof, except as provided in subsection (10) of KRS 325.340, shall not deprive a certificate holder or registrant of the right to renewal; in such cases a certificate holder or registrant in good standing may renew his permit by payment of any and all annual fees unpaid by him since the expiration of his permit and by payment of a penalty of ten dollars ($10.00) in addition thereto.

Section 7. KRS 325.380 is amended to read as follows:

(1) No person shall assume or use the title or designation "certified public accountant" or the abbreviation "CPA" or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that such person is a certified public accountant, unless such person has received a certificate as a certified public accountant under this chapter and holds a permit issued under KRS 325.330 which has not been revoked or suspended*; nor shall any person practice public accountancy as defined in KRS 325.220(4) without a valid permit issued under KRS 325.310.*

(2) No partnership shall assume or use the title or designation "certified public accountants" or the abbreviation "CPA's" or any other title, designation, words, letters, abbreviation, sign, card or device tending to indicate that such partnership is composed of certified public accountants unless such partnership is registered as a partnership of certified public accountants under KRS 325.300 and holds a permit issued under KRS 325.330 which has not been revoked or suspended.

(3) No individual shall assume or use the title or designation "public accountant" or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that such person is a public accountant, unless such person is registered as a public accountant under KRS 325.310 and holds a permit issued under KRS 325.330 which has not been revoked or suspended [, or unless such person has received a certificate as a certified public accountant under this chapter and holds a permit issued under KRS 325.330 which has not been revoked or suspended].

(4) No partnership shall assume or use the title or designation "public accountants" or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that such partnership is composed of public accountants, unless such partnership is registered as a partnership of public accountants under KRS 325.320 [or as a partnership of certified public accountants under KRS 325.300] and holds a permit issued under KRS 325.330 which has not been revoked or suspended.

(5) No individuals, partnership or corporation shall assume or use the title or designation "certified accountant," "chartered accountant," "enrolled accountant," "licensed accountant," "registered accountant," or any other title or designation likely to be confused with "certified public accountant" and "public accountant" or any of the abbreviations "CA," "PA," "EA," "RA," or "LA," or similar abbreviations likely to be confused with "CPA."

(6) No individual shall affix his signature, with any wording indicating that he is *a certified public accountant* [an accountant or auditor, or with any wording indicating that he has expert knowledge in accounting or auditing, to any accounting or financial statement, or] to any opinion on [, report on or certificate to] any accounting or financial statement, unless he holds a permit issued under KRS 325.330 which has not been revoked or suspended, provided, however, that the provisions of this subsection shall not prohibit any officer, employe, partner or principal of any organization from affixing his signature to any statement or report in reference to the financial affairs of said organization with any wording designating the position, title, or office which he holds in said organization, nor shall the provisions of this subsection prohibit any act of a public official or public employe in the performance of his duties as such. *Only certified public accountants holding a valid permit to practice shall be permitted to practice public accountancy with the attest function; however, nothing shall preclude other practitioners from describing the scope of the services performed in the engagement and the procedures followed provided that no opinion or judgment is rendered as to whether the figures fairly present the financial position of the client.*

(7) No individual shall sign or affix a partnership name, with any wording indicating that it is a partnership composed of accountants or auditors or persons having expert knowledge in accounting or auditing, to any accounting or financial statement, or to any report on or certificate to any accounting or financial statement, unless the partnership holds a permit issued under KRS 325.330 which has not been revoked or suspended.

(8) No individual shall sign or affix a corporate name, with any wording indicating that it is a corporation performing services as accountants or auditors or composed of accountants or auditors or persons having expert knowledge in accounting or auditing, to any accounting or financial statement, or to any report on or certificate to any accounting or financial statement.

The Committee Amendment to **HB 258** is as follows:

Amend printed copy of House Bill 258 on page 9, by deleting lines 17-26 in their entirety;

and on page 10, by deleting lines 1-26 in their entirety;

and on page 11, by deleting lines 1-4 in their entirety;

and on page 5, by deleting “*(4)*” and inserting in lieu thereof “*(2)*”;

and on line 11, by deleting “*(5)*” and inserting in lieu thereof “*(3)*”.

HB 368, AN ACT creating a small winery license.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 243 is created to read as follows:

A small winery license shall be issued upon a verified application to the board. The application shall be upon forms provided by the board and shall contain such information as the board requires, which shall include affirmative evidence of the applicant's ability to comply with such rules and regulations as may be promulgated by the board.

Section 2. A new section of KRS Chapter 243 is created to read as follows:

(1) A small winery license shall authorize the licensee to perform the following functions, without having to obtain separate licenses:

(a) Manufacture wines and bottle wines produced by that small winery in an amount not to exceed fifty thousand (50,000) gallons in one (1) year;

(b) Serve on the premises complimentary samples of wine produced by it in amounts not to exceed six (6) ounces per patron, provided the small winery is located in wet territory;

(c) Sell wine produced on the premises of the small winery at retail to non-license holders provided that the small winery is located in wet territory.

(d) Sell wine produced on the premises of the small winery to holders of a license authorizing them to sell wine at retail, including but not limited to, retail stores, restaurants, clubs and dining cars; and

(e) Sell wine produced on the premises of the small winery to wholesale license holders.

(2) In accordance with regulations developed by the board the holder of a small winery license, upon affidavit filed with the board that grapes, grape juice, other fruits, other fruit juices or honey produced in Kentucky are not obtainable, may apply for a permit to import such products.

(3) If a licensed small winery is located in a dry territory KRS 242.230 to 242.430 shall apply.

(4) This Act does not exempt the holder of a small winery license from the provisions of KRS Chapters 241, 242, 243, and 244, nor from the rules of the board as established by administrative regulations, nor from regulation by the board, except as expressly stated in this Act.

Section 3. KRS 243.030 is amended to read as follows:

The following kinds of distilled spirits and wine licenses may be issued by the administrator of the distilled spirits unit, the fees for which shall be:

(1) Distiller's license, per annum	$ 500.00
(2) Rectifier's license, per annum	$1500.00
(3) Blender's license, per annum	$ 500.00

(4) Vintner's license, per annum	$ 500.00
(5) Small Winery license, per annum	*$ 250.00*
(6) [(5)] Wholesaler's license, per annum	$1000.00
(7) [(6)] Retail package license, per annum:	
(a) In counties containing cities of the first class	$ 600.00
(b) In counties containing cities of the second class	$ 500.00
(c) In counties containing cities of the third class	$ 400.00
(d) In counties containing cities of the fourth class	$ 300.00
(e) In all other counties	$ 200.00
(8) [(7)] Retail drink license, per annum:	
(a) In counties containing cities of the first class	$ 800.00
(b) In counties containing cities of the second class	$ 500.00
(c) In counties containing cities of the third class	$ 400.00
(9) [(8)] Transporter's license, per annum	$ 10.00
(10) [(9)] Dining car license, per annum	$ 50.00
(11) [(10)] Special nonbeverage alcohol vendor's license, per annum	$ 2.00
(12) [(11)] Special industrial alcohol license, per annum	$ 2.00
(13) [(12)] Special nonindustrial alcohol license, per annum	$ 2.00
(14) [(13)] Special agent's or solicitor's license, per annum	$ 2.00
(15) [(14)] Special storage or warehouse license, per annum	$ 50.00
(16) [(15)] Special temporary license, per month or part of month, one-sixth of the fees enumerated in subsection (7).	
(17) [(16)] Special private club license, per annum	$ 150.00
(18) [(17)] Special Sunday retail drink license	$ 300.00

(19) [(18)] Such other special license as the board may find necessary for the proper regulation and control of the traffic in distilled spirits and wine and may provide for by regulation. In fixing the amount of license taxes that are required to be fixed by the board, it shall have regard for the value of the privilege granted.

Section 4. KRS 243.110 is amended to read as follows:

(1) Except as provided in subsection (2) of this section, each kind of license listed in KRS 243.030 shall be inconsistent with every other kind listed in that section and no person holding a license of any of those kinds shall apply for or hold a license of another kind listed in KRS 243.030.

(2) The holder of a retail package license may also hold either a retail drink license or a special nonindustrial alcohol license. The holder of a transporter's license may also hold a special storage or warehouse license. The holder of a wholesaler's license may also hold a special nonbeverage alcohol vendor's license, a special industrial alcohol license or a vintner's license. The holder of a distiller's license may also hold a rectifier's license. *The holder of a small winery license may exercise all functions of such license as authorized by Section 2 of this Act.*

(3) Any person may hold two (2) or more licenses of the same kind.

(4) An applicant shall not evade the prohibition against applying for or holding licenses of two (2) kinds by applying for a second license under the cloak of a separate corporate entity. The state administrator may examine into the ownership and management of corporations which apply for or hold licenses, and shall deny the application for a license to any party substantially interested in an incompatible license.

Section 5. KRS 244.050 is amended to read as follows:

No retail licensee shall give away any alcoholic beverage in any quantity, or deliver it in any quantity for less than a full monetary consideration, *except as provided by Section 2 of this Act.*

Section 6. KRS 241.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Alcohol" means ethyl alcohol, hydrated oxide of ethyl or spirit of wine, from whatever source or by whatever process it is produced.

(2) "Alcoholic beverage" means every liquid or solid, whether patented or not, containing alcohol in an amount in excess of that permitted under KRS chapter 242 and capable of being consumed by a human being. It includes every spurious or imitation liquor sold as, or under any name commonly used for, alcoholic beverages, whether containing any alcohol or not. It does not include the following products if they are unfit for use for beverage purposes: (a) medicinal preparations manufactured in accordance with formulas prescribed by the United States pharmacopoeia, national formulary or the American institute of homeopathy; (b) patented, patent and proprietary medicines; (c) toilet, medicinal and antiseptic preparations and solutions; and (d) flavoring extracts and syrups.

(3) "Board" means the state alcoholic beverage control board created by KRS 241.030.

(4) "Bottle" means any container which is used for holding alcoholic beverages for the use and sale of alcoholic beverages at retail.

(5) "Brewer" means any person who owns, occupies, carries on, works or conducts any brewery, either by himself or by his agent.

(6) "Brewery" means any place or premises where malt beverages are manufactured for sale, and includes all offices, granaries, mash rooms, cooling rooms, vaults, yards and storerooms connected with the premises; or where any part of the process of the manufacture of malt beverages is carried on; or where any apparatus connected with manufacture is kept or used; or where any of the products of brewing or fermentation are stored or kept.

(7) "Building containing licensed premises" means the licensed premises themselves and includes any part of any building in which the premises are contained, and any part of any other building connected with the building by direct access or by a common entrance.

(8) "City administrator" means city alcoholic beverage control administrator.

(9) "Commissioner" means the commissioner of alcoholic beverage control.

(10) "Convicted" and "conviction" means a finding of guilt resulting from a plea of guilty, the decision of a court, or the finding of a jury, irrespective of a pronouncement of judgment or the suspension of the judgment.

(11) "County administrator" means county alcoholic beverage control administrator.

(12) "Department" means the department of alcoholic beverage control.

(13) "Distilled spirits" or "spirits" means any product capable of being consumed by a human being which contains alcohol in excess of the amount permitted by KRS chapter 242 obtained by distilling, mixed with water or other substances in solution, except wine.

(14) "Distiller" means any person who is engaged in the business of manufacturing distilled spirits at any distillery in the state, and is registered in the office of the collector of internal revenue for the United States at Louisville, Kentucky.

(15) "Distillery" means any place or premises where distilled spirits are manufactured for sale, and which are registered in the office of any collector of internal revenue for the United States. It includes any United States government bonded warehouse.

(16) "Distributor" means any person who distributes malt beverages for the purpose of being sold at retail.

(17) "Dry territory" means a county, city, district or precinct in which a majority of voters have voted in favor of prohibition, as prohibition is defined in KRS 242.010.

(18) "Field representative" means any employe or agent of the department who is regularly employed and whose primary function is to travel from place to place for the purpose of visiting taxpayers, and any employe or agent of the department who is assigned, temporarily or permanently, by the commissioner to duty outside the main office of the department at Frankfort, in connection with the administration of alcoholic beverage statutes.

(19) "License" means any license issued pursuant to KRS 243.020 to 243.670.

(20) "Licensee" means any person to whom a license has been issued, pursuant to KRS 243.020 to 243.670.

(21) "Malt beverage" means any fermented undistilled alcoholic beverage of any name or description, manufactured from malt wholly or in part, or from any substitute for malt, and having an alcoholic content greater than that permitted under KRS chapter 242.

(22) "Manufacture" means distill, rectify, brew, bottle and operate a winery.

(23) "Manufacturer" means a vintner, distiller, rectifier or brewer and any other person engaged in the production or bottling of alcoholic beverages.

(24) "Premises" means the land and building in and upon which any business regulated by alcoholic beverage statutes is operated or carried on. It shall not include as a single unit two (2) separate businesses or enterprises of one (1) owner on the same lot or tract of land, in the same or in different buildings.

(25) "Rectifier" means any person who rectifies, purifies or refines distilled spirits or wine by any process other than as provided for on distillery premises, and every person who, without rectifying, purifying or refining distilled spirits by mixing alcoholic beverages with any materials, manufactures any imitations of or compounds liquors for sale under the name of whiskey, brandy, gin, rum, wine, spirits, cordials, bitters or any other name.

(26) "Repackaging" means the placing of alcoholic beverages in any retail container irrespective of the material from which the container is made.

(27) "Retail sale" means any sale where delivery is made in Kentucky to any person not holding a license.

(28) "Retailer" means any person who sells at retail any alcoholic beverage for the sale of which a license is required.

(29) "Sale" means any transfer, exchange or barter for consideration, and includes all sales made by any person, whether principal, proprietor, agent, servant or employe, of any alcoholic beverage.

(30) "Sell" includes solicit or receive an order for, keep or expose for sale, keep with intent to sell, and the delivery of any alcoholic beverage.

(31) "State administrator" means the administrator of the distilled spirits unit or the administrator of the malt beverage unit or both, as the context requires.

(32) "Vintner" means any person who owns, occupies, carries on, works, conducts or operates any winery, either by himself or by his agent, except persons who manufacture wine for sacramental purposes exclusively.

(33) "Warehouse" means any place in which alcoholic beverages are housed or stored.

(34) "Wholesale sale" means a sale to any person for the purpose of resale.

(35) "Wholesaler" means any person who sells at wholesale any alcoholic beverage for the sale of which a license is required, except a distiller, rectifier, brewer or vintner.

(36) "Wine" means the product of the normal alcoholic fermentation of the juices of fruits, with the usual cellar treatment and necessary additions to correct defects due to climatic, saccharine and seasonal conditions. It includes champagne and sparkling and fortified wine of an alcoholic content not to exceed twenty-four per cent (24%) by volume.

(37) "Winery" means any place or premises in which wine is manufactured from any fruit, or brandies are distilled as a by-product of wine or other fruit, or cordials are compounded. It includes a winery for the manufacture of wine in any state or county other than Kentucky, if the out-of-state winery has and maintains a branch factory, office or storeroom within this state and receives wine within this state consigned to a United States government bonded winery, warehouse or storeroom located within this state.

(38) "Small winery" means a winery producing wines from grapes, other fruit or honey produced in Kentucky unless exempt under subsection (2) of Section 2 of this Act, in an amount not to exceed fifty thousand (50,000) gallons in one (1) year.

The Committee Amendment to **HB 368** is as follows:

Amend printed copy of House Bill 368 on page 2, line 3, following the word "holders" by inserting "in an amount not to exceed that which a person may legally buy and transport for his own consumption"; and

by deleting lines 5, 6, 7, and 8 in their entirety; and on

line 9, by deleting "(e)" and substituting in lieu thereof "(d)";

and on line 16, following "products." by inserting the following "The burden of proof shall be upon the applicant to show that the grapes, grape juice, other fruits, other fruit juices or honey are not available from any other source within the Commonwealth of Kentucky."

HB 396, AN ACT relating to the practice of optometry.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 320.210 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Board" means the Kentucky board of optometric examiners;

(2) "Practice of optometry" means the employment of any means other than the use of drugs, *except diagnostic pharmaceutical agents as authorized in KRS 320.240,* medicine or surgery to examine the human eye, to determine the visual efficiency of the human eye, or to determine the powers or defects of vision; the prescribing, providing, furnishing, adapting, using or employing lenses, prisms, contact lenses, visual training, orthoptics, ocular exercise or any other means or device other than the use of drugs, *except diagnostic pharmaceutical agents as authorized in KRS 320.240,* medicine or surgery for the aid, relief or correction of vision;

(3) "Visual aid glasses" means eyeglasses, spectacles or lenses designed or used to correct visual defects; Provided, however, That nothing in the provisions of this chapter relating to the practice of optometry shall be construed to limit or restrict, in any respect, the sale of sunglasses designed and used solely to filter out light; and further provided that nothing in this chapter relating to the practice of optometry shall be construed to limit or restrict, in any respect, the sale of completely assembled eyeglasses or spectacles designed and used solely to magnify;

(4) An orthoptic technician is a person who trains and directs individuals to engage in ocular exercises designed to correct visual defects, and shall not be required to be licensed under the provisions of this chapter provided that such training and directions are done pursuant to and under the instructions of a duly licensed physician, osteopath or optometrist and consists solely of visual training, orthoptics or ocular exercises.

Section 2. KRS 320.240 is amended to read as follows:

(1) The board shall meet at least once each year at which time it shall choose from among its members the president, vice-president, and secretary-treasurer. In addition, the board upon call of its officers, may hold meetings at such time as it deems necessary. The secretary-treasurer shall keep a full record of its proceedings which shall be open to inspection at all reasonable times.

(2) The board shall keep a register containing the name, address and license number of every person licensed to practice optometry in this state.

(3) The attorney general shall render to the board such legal services as it may require in carrying out and enforcing the provisions of this chapter.

(4) Subject to and consistent with the provisions of this chapter, the board shall make and promulgate reasonable rules and regulations and do any and all things which it may deem necessary or proper for the effective enforcement of this chapter and for the full and efficient performance of its duties hereunder and the reasonable regulation of the profession of optometry and the practice thereof by licensed optometrists.

(5) The board shall have a common seal.

(6) The board shall have authority to administer oaths and to require the attendance of witnesses, the production of books, records and papers pertinent to any matters coming before the board by the issuance of process which shall be served and returned in the same manner as in civil actions and for the disobedience of which the board shall have the power to invoke the same rights as are provided in the event of disobedience of a subpoena or subpoena duces tecum in a civil action.

(7) The board shall make rules and regulations governing applicants and applications for registration or license under this chapter and governing the conduct of licensing examinations.

(8) The board shall from time to time accredit schools and colleges teaching optometry, the graduates of which shall be eligible to licensing examinations.

(9) The board shall have the right to determine what acts on the part of any person licensed as an optometrist in this state shall constitute unprofessional conduct under this chapter.

(10) The board shall have authority, to assist in the prosecution of any violation of this chapter and in the enforcement of any of the provisions of this chapter.

(11) The board shall have such other powers and duties as may be provided in the provisions of this chapter.

(12) The board shall make a report of its proceedings to the governor on or about January 1st of each year, including an accounting of all moneys received and disbursed.

(13) The board may authorize persons engaging in the practice of optometry under the provisions of this chapter to utilize diagnostic pharmaceutical agents including miotics, mydriatics, cycloplegics, and anesthetics applied topically only. The application of such diagnostic pharmaceutical agents shall be limited to those persons who have sufficient education and professional competence as determined by the board and who have earned transcript credits of at least six (6) semester hours in a course or courses in General and Ocular Pharmacology, with particular emphasis on diagnostic pharmaceutical agents applied topically to the eye, from a college or university accredited by a regional or professional accreditation organization which is recognized or approved by the Council on Postsecondary Accreditation or by the United States commissioner of Education.

The Committee on Elections and Constitutional Amendments reported **HB 325** and **SB 33,** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 325, AN ACT relating to elections.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 89.060 is amended to read as follows:

(1) In cities of the fourth class no person shall be elected to the office of mayor, police judge or commissioner without first having been nominated in the manner prescribed by this section *except when vacancies occur as hereinafter provided.* On the first Tuesday after the fourth Monday in May there shall be held a primary election. The primary election shall be conducted by the same officers chosen and acting in the

same manner, with the same rights and duties, as in the regular election.

(2) Each applicant for nomination shall, at least fifty-five days before the day of the primary election, file with the county clerk a petition signed by at least twenty voters, in the following form:

"We the undersigned, qualified voters of the city of .... and residing each at the place indicated opposite his name, do hereby request that the name of .... be placed on the voting machine and special ballot as that of an applicant for nomination for the office of .... at the primary election to be held in our city on the first Tuesday after the fourth Monday in May. We know the applicant to be a qualified voter of the city and a person of good character; and he is, in our judgment, qualified for the duties of the office sought by him.
Name Number
Street
....
....
...."

No voter shall sign more than one petition with reference to each office that is to be filled. If a person signs more than one petition of applicants for nomination for mayor or police judge, or signs the petitions of more than four applicants for nomination for commissioners, the name of that petitioner shall not be counted as a valid name on any petition.

(3) Immediately upon the expiration of the time for filing the petitions, the county clerk shall have published pursuant to KRS chapter 424, the names of the persons as they will appear upon the primary ballot labels and special ballots, and shall thereupon cause the primary ballot labels and special ballots to be printed.

(4) Subsection (3) of this section shall not apply if it appears, immediately upon the expiration of the time for filing petitions, that there are only two applicants for nomination for mayor or police judge, and only eight or less for commissioners. In that case such applicants shall thereupon be nominated and no primary election shall be held for nomination for those offices, but the county clerk shall have their names placed on the voting machine and special ballot for the general election.

(5) The names of the applicants for each nomination shall be placed on the voting machine and special ballots for the primary election by lot. Above the names of the applicants for nomination for mayor or police judge shall be printed the words "Vote for one," and above the names of the applicants for nomination for commissioners shall be printed the words "Vote for four." No party designation or emblem of any kind, nor any sign indicating any applicant's political belief or party affiliation shall be used.

(6) The persons who are qualified to vote at the regular municipal election shall be qualified to vote at the primary election, and the law applicable to challenges made at a regular municipal election shall be applicable to challenges made at the primary election.

(7) The two applicants receiving the highest number of votes for nomination for mayor and the two applicants receiving the highest number of votes for nomination for police judge shall be thereby nominated. The eight applicants receiving the highest number of votes for nomination for commissioners shall be thereby nominated.

(8) The expenses of the primary election shall be paid by the city, when only city offices are on the ballot. When the ballot includes offices other than city offices, the city shall bear its proportionate share of the cost of the election.

(9) If a vacancy occurs in the nomination of an unopposed candidate such vacancy shall be filled by placing the name of the office on the ballot to be voted on by "write-in" votes. When a vacancy occurs in the nomination of an unopposed candidate and such vacancy does not create a less number of nominees than there are offices to be filled, such vacancy shall not be filled.

(10) If a vacancy occurs after the nominating primary the vacancy shall be filled by certifying the person who received the next highest vote count in the primary as nominated.

(11) If a vacancy occurs during the term of an elected city officer but beyond the filing deadline for the regular city primary but before the expiration of the three months interval required by Section 152 of the Constitution such vacancy shall be filled by the filing of nonpartisan petition in the form provided for in subsection (2). The petition shall be filed fifty-five (55) days prior to the general election. The candidates nominated by petition shall be listed on the ballot under the office in which the vacancy has occurred.

Section 2. KRS 89.440 is amended to read as follows:

(1) No person shall be elected to the office of mayor, police judge or commissioner without first being nominated in the manner prescribed by this section *except when vacancies occur as hereinafter provided.* On the first Tuesday after the fourth Monday in May there shall be held a primary election. The primary election shall be conducted by the same officers chosen and acting in the same manner, with the same rights and duties, as in the regular election.

(2) Each applicant for nomination shall, at least fifty-five days before the day of the primary election, file with the county clerk a petition signed by at least one hundred (100) voters, in a city of the first or second

class, or by at least fifty (50) voters in a city of the third or fourth class, in the following form:

"We the undersigned, qualified voters of the city of .... and residing each at the place indicated opposite his name, do hereby request that the name of .... be placed on the voting machine and special ballot as that of an applicant for nomination for the office of .... at the primary election to be held in our city on the first Tuesday after the fourth Monday in May. We know the applicant to be a qualified voter of the city and a person of good character, and he is, in our judgment, qualified for the duties of the office.

Name Number

Street

....

....

...."

No voters shall sign more than one (1) petition with reference to each office that is to be filled. If any voter signs more than one (1) petition of applicants for nomination for mayor or police judge, or signs the petitions of more applicants for nomination for commissioners than the number of commissioners to be elected, the name of that petitioner shall not be counted as a valid name on any petition.

(3) Immediately upon the expiration of the time for filing petitions the county clerk shall have published as provided in KRS chapter 424, the names of the persons as they will appear upon the primary ballot labels and special ballots, and shall thereupon cause the primary ballot labels and special ballots to be printed.

(4) Subsection (3) of this section shall not apply if it appears, immediately upon the expiration of the time for filing petitions, that there are not more than two (2) applicants for nomination as mayor or police judge, or not more applicants for nomination for commissioner than twice the number of commissioners to be elected. In that case the applicants for mayor or police judge and the applicants for commissioner shall thereby be nominated, and no primary election shall be held for nomination for those offices.

(5) The names of the applicants for each nomination shall be placed on the voting machine as provided in KRS 89.460. Above the names of the applicants for nomination for mayor or police judge shall be printed the words, "Vote for one," and above the names of the applicants for nomination for commissioners shall be printed the words, "Vote for four," in a city of the second, third or fourth class. No party designation or emblem of any kind, nor any sign indicating any applicant's political belief or party affiliation shall be used.

(6) The persons who are qualified to vote at the regular municipal election are qualified to vote at the primary election, and the law applicable to challenges made at a regular municipal election is applicable to challenges made at the primary election.

(7) The votes shall be counted as provided in the general election laws, and after being so counted the result shall be published as provided in KRS chapter 424.

(8) The two (2) applicants receiving the highest number of votes for nomination for mayor and the two (2) applicants receiving the highest number of votes for nomination for police judge shall be thereby nominated. The eight (8) applicants receiving the highest number of votes for nomination for commissioners are thereby nominated.

(9) The expenses of the primary election shall be paid by the city, when only city offices are on the ballot. When the ballot includes offices other than city offices, the city shall bear its proportionate share of the cost of the election.

(10) If a vacancy occurs in the nomination of an unopposed candidate such vacancy shall be filled by placing the name of the office on the ballot to be voted on by "write-in" votes. When a vacancy occurs in the nomination of an unopposed candidate and such vacancy does not create a less number of nominees than there are offices to be filled, such vacancy shall not be filled.

(11) If a vacancy occurs after the nominating primary the vacancy shall be filled by certifying the person who received the next highest vote count in the primary as nominated.

(12) If a vacancy occurs during the term of an elected city officer but beyond the filing deadline for the regular city primary but before the expiration of the three month interval required by Section 152 of the Constitution such vacancy shall be filled by the filing of nonpartisan petition in the form provided for in subsection (2). The petition shall be filed fifty-five (55) days prior to the general election. The candidates nominated by petition shall be listed on the ballot under the office in which the vacancy has occurred.

SECTION 3. A NEW SECTION OF KRS CHAPTER 117 IS CREATED TO READ AS FOLLOWS:

(1) Any qualified voter who has not been declared incompetent by a court of competent jurisdiction, and who, on account of age, infirmity or illness, is not able to appear at the polls on election day may vote in the following manner. At least seven (7) days prior to the date of the election, he shall present to the clerk by mail his verified statement that his inability to appear is due to age, infirmity, or illness, and a verified statement of a physician corroborating the voter's statement. The clerk shall immediately mail to the voter a special ballot, and envelopes, and the voter shall cast his vote in the same manner as provided for the absent voter in KRS 118.790 and 117.335.

(2) Special ballots cast by disabled persons shall be tabulated in the same manner as are special ballot cast by absent voters.

SECTION 4. A NEW SECTION OF KRS CHAPTER 117 IS CREATED TO READ AS FOLLOWS:

(1) Any qualified voter in any county who expects to be absent from the county on any election day or any person incarcerated in jail that has been charged for a crime but has yet to be convicted of the said crime may, at any time not less than seven (7) days before the election, make application in person or by mail to the county clerk for a special ballot. The application form shall be in the form prescribed by the state board of elections and shall contain the following information: name, address, precinct, party affiliation, statement of expected absence on election day and mailing address for special ballot. The form shall be verified and signed by the voter.

(2) If the county clerk finds that the voter is properly registered as stated in his application, he shall immediately mail to the voter a special ballot, two (2) official envelopes for returning the ballot, and instructions for voting. The outer envelope shall provide space for the voter's signature, voting address and precinct number. The clerk shall type the voter's address and precinct number in the upper left hand corner of the absent voter's outer envelope immediately below the blank space for the voter's signature. The inner envelope shall be blank. The clerk shall retain the application until thirty (30) days after the election.

(3) A list of persons to whom absent ballots are mailed shall be posted in the clerk's office, for public inspection, and a list shall be included in the supplies sent to each precinct on election day. No person who has been mailed an absent voter's ballot shall be allowed to vote at the precinct on election day.

Section 5. KRS 117.335 is amended to read as follows:

(1) The challenge of an absent voter's ballot must be in writing and in the hands of the county clerk before 3:00 p.m. on election day.

(2) The county board of elections shall count the absentee ballots. The board may appoint a central absentee ballot counting board of not less than three (3) members, who shall be qualified voters and no more than two-thirds (2/3) of which shall be members of the same political party, to count the ballots at the direction of the county board of elections.

(3) Beginning at 3:00 p.m. on election day the board may meet at the clerk's office to count the absentee ballots. Candidates or their representatives shall be permitted to be present. The board shall open the boxes containing absent voters' ballots and remove the envelopes one (1) at a time. As each envelope is removed, it shall be examined to ascertain whether the outer envelope is in proper order and has been signed by the absent voter. All unsigned absentee ballots shall be rejected automatically. The clerk shall compare the signature on the outer envelope with the signature of the voter that appears on the registration card. If the outer envelope is found to be in order the clerk shall read aloud the name of the absent voter. If the vote of such voter is not rejected on a challenge then made as provided in subsection (4), the clerk shall then open the envelope and remove the inner envelope and place it unopened in a ballot box which has been provided for the purpose.

(4) When the name of an absent voter is read aloud by the clerk, the vote of such voter may be challenged and the challenge thereto may be determined and the *absentee* vote accepted or rejected by the board as if the voter was present and voting in person, but if the outer envelope is regular, and substantially complies with the provisions of this chapter, they shall be considered as showing that the absent voter is prima facie entitled to vote. If the vote of an absent voter is rejected pursuant to the challenge, the outer envelope shall not be opened, and the clerk shall write on the envelope the word "rejected".

(5) After the challenges have been made and all the blank inner envelopes have been placed in a ballot box, the box shall be thoroughly shaken so as to redistribute the ballots in the box. The board shall then open the ballot box, remove the absentee ballots from the inner envelopes and count the absentee ballots on a form provided by the state board.

(6) The county clerk shall retain the ballots and the *outer* [inner] envelopes for thirty (30) days, at which time they shall be burned by the county board of elections. If a contest or recount proceeding is instituted during said thirty-day period, the ballots shall not be burned but shall be disposed of as directed by the court in which such proceeding was instituted.

(7) The county board of elections shall make public the absentee ballot results after 6:00 p.m.

Section 6. KRS 117.265 is amended to read as follows:

(1) A voter may, at any general or special election, cast a write-in vote for any person whose name does not appear upon the ballot label as a candidate, by writing the name of his choice upon the appropriate device for the office being voted on provided on the voting machine as required by KRS 117.125. *An absentee voter may write-in a vote for any person whose name does not appear upon the special ballot, by writing the name of his choice under the office.*

(2) Two (2) election officers of opposing parties shall upon the request of any voter instruct such voter on how to cast a write-in vote.

Section 7. KRS 118.176 is amended to read as follows:

(1) A "bona fide" candidate means one who is seeking party nomination or election according to law.

(2) The bona fides of any candidate seeking party nomination or election as an independent may be questioned by any qualified voter entitled to vote for such candidate or by an opposing candidate by summary proceedings consisting of a motion before the circuit court, or before the circuit judge if the court is in vacation, of the district in which the candidate whose bona fides is questioned resides. The motion shall be tried summarily and without delay, and a hearing before the judge shall be considered a special term for the purpose. Proof may be heard orally, and upon motion of either party shall be officially reported. If the circuit judge of the district in which the proceeding is filed is disqualified or absent from the county or is himself a candidate, the proceeding may be presented to, heard and determined by the circuit judge of any adjoining judicial district. [In any county having more than two (2) circuit judges the motion shall be made to and tried by a majority of the circuit judges and the concurrence of a majority of the circuit judges is required to render a decision.]

(3) In any action or proceeding under this section the burden of proof as to the bona fides of a candidate shall be on the person challenging the bona fides of a candidate.

(4) If the court finds the candidate is not a bona fide candidate it must so order, and certify the fact to the board of elections, and the candidate's name shall be stricken from the written designation of election officers filed with the board of elections or the court may refuse recognition or relief in a mandatory or injunctive way. The order of the circuit court shall be entered on the order book of the court and shall be subject to a motion to set aside in the Court of Appeals. The motion shall be heard by the Court of Appeals or a judge thereof in the manner provided for dissolving or granting injunctions, except that the motion must be made before the court or judge within five (5) days after the entry of the order in the circuit court, and may be heard and tried upon the original papers, and the order of the Court of Appeals or judge thereof shall be final.

(5) No person shall approach the circuit judge for the purpose or view of influencing his decision on the motion pending before him or to be tried by him.

SECTION 8. A NEW SECTION OF KRS CHAPTER 118 IS CREATED TO READ AS FOLLOWS:

(1) If, before the time of certification provided in KRS 118.215, any candidate whose certificate or petition of nomination has been filed in the office of the secretary of state notifies the the secretary of state in writing, signed and properly notarized that he will not accept the nomination, the secretary of state shall not certify his name.

(2) If, before the ballots are printed, any candidate whose certificate or petition of nomination has been filed in the office of the county clerk notifies the clerk, in the manner described in subsection (1) of this section, that he will not accept the nomination, the clerk shall not cause his name to be printed on the ballot.

Section 9. KRS 118.215 is amended to read as follows:

(1) Not less than forty-five (45) days before a primary or regular election is to be held, and after the order of the names has been determined as provided in KRS 118.225, the secretary of state shall certify, to the county clerks of the respective counties entitled to participate in the nomination or election of the respective candidates, the name, place of residence and party of each candidate for each office, as specified in the nomination papers or certificates and petitions of nomination filed with him, and shall designate the device under which the candidate groups or lists of candidates of each party shall be printed, in the order in which they are to appear on the ballot, with precedence to be given to the party that polled the highest number of votes at the preceding election for presidential electors. Candidates for county offices shall be listed in the following order: county judge, commonwealth's attorney, county attorney, circuit clerk, county clerk, sheriff, jailer, county commissioner, property valuation administrator, coroner, justice of the peace and constable. The names of candidates for president and vice president shall be certified in lieu of certifying the names of the candidates for presidential electors.

(2) All independent candidates whose nominating petitions are filed with the county clerk shall be listed under the title and device designated by them, or if none is designated, under the word "independent". *The order in which independent candidates shall appear on the ballot shall be determined by lot by the county clerk.* If the same device is selected by two groups of petitioners, it shall be given to the first selecting it and the county clerk shall permit the other group to select a suitable device.

(3) When any city so provides by ordinance, the ballots used at any election in which city officers are to be elected shall contain the names of candidates for such city offices grouped according to the offices they seek, and such candidates shall be immediately arranged under and beneath the title of office such candidates seek. The order in which the names of the candidates for each office are to be printed on the ballot shall be determined by lot. Each group of candidates for each separate office for which such candidates are to be

elected shall be separated from the preceding or succeeding groups by a line transversing the entire ballot and spaced so as to avoid confusion on the part of the voter.

(4) The secretary of state shall not knowingly certify to the county clerk of any county the name of any candidate who has not filed the required nomination papers, nor knowingly fail to certify the name of any candidate who has filed the required nomination papers.

[(5) If any candidate withdraws before certification, the secretary of state shall not certify his name. If any candidate withdraws before ballot labels are printed, the clerk shall not cause his name to be printed on a ballot label.]

Section 10. KRS 117.155 is amended to read as follows:

Upon receiving the printed ballot labels, the county clerk shall place them in the ballot frames upon the machines, in such a manner as will most nearly conform to the plan of arrangement prescribed by the *secretary of state* [state board of elections] in the manner prescribed in KRS 118.215. He shall then see that the counters referred to in subsections (10) and (11) of KRS 117.125 are set at zero, and shall lock the operating device and mechanism and the devices protecting the counters and ballot labels. He shall then enter in an appropriate book, opposite the number of each precinct the distinguishing number of the machine to be used in that precinct.

Section 11. KRS 116.145 is amended to read as follows:

[In order to provide for a complete roster of qualified voters in the commonwealth, reregistration of all persons shall be required at or following the 1972 regular election and prior to the 1973 regular election.] The fee for [this] registration of all voters shall be paid to the county clerk by the state in the amount of twenty-five cents (25¢) for each person registered.

Section 12. KRS 118.395 is amended to read as follows:

(1) The names of the candidates for the offices of judge of the Court of Appeals and circuit judge shall be placed on the voting machine at the regular election in a column or line headed or preceded by the words "Judicial Ballot," in such a manner that the casting of a vote for all of the candidates of one party as contemplated by subsection (3) of KRS 117.125 will not operate to cast a vote for such judicial candidates. [When voting machines are not used,] *T* [t]he names of such judicial candidates shall be designated by the name of the political party by which he was nominated, or if an independent, by the designation specified in his nominating petition.

(2) The names of the candidates shall be arranged in such order as may be determined by lot by the *secretary of state or county clerk* [state board of elections].

Section 13. KRS 118.195 is amended to read as follows:

All nomination papers filed under KRS 118.165 *and 118.365* shall at all times be subject to inspection by any person.

Section 14. KRS 121.100 is amended to read as follows:

The provisions of KRS 121.015, 121.100 to 121.200, and 121.990 shall apply to all candidates running for public office, including urban county governments, in any primary or general election, or in any special election to fill a vacancy, except those candidates running for *federal office,* boards of education, county and local district offices filled by less than a countywide constituency and offices in cities of the third, fourth, fifth and sixth classes. However, the provisions of KRS 121.190 shall apply to all candidates for public office.

Section 15. KRS 121.180 is amended to read as follows:

(1) State and county executive committees shall make a full report, upon a prescribed form, to the registry, of all money, loans or other things of value, received from any source since the date of the last report, including the name, address, and occupation of each person or group contributing in excess of one hundred dollars ($100), the amount contributed by each and the date of the contribution, and a complete statement of all expenditures authorized, incurred, or made. The complete statement of expenditures shall include the name and address of each person to whom an expenditure is made in excess of fifty dollars ($50.00) and the amount, date and purpose of each expenditure. This report shall be made to the registry within thirty (30) days after the regular primary and general elections. If an individual gives a reportable contribution to a state or county executive committee with the intention that the contribution or a portion of the contribution go to a candidate, the name of the contributor and the sum shall be indicated on the committee report.

(2) Each campaign treasurer of a candidate, campaign committee shall make a full report, upon a prescribed form, to the registry, of all money, loans or other things of value, received by him from any source, since the date of the last report, including the name, address, and occupation of each person or group contributing in excess of one hundred dollars ($100), the amount contributed by each and the date of the

contribution, and a complete statement of all expenditures authorized, incurred, or made. The complete statement of expenditures shall include the name, address, and occupation of each person to whom an expenditure is made in excess of fifty dollars ($50.00), and the amount, date and purpose of each expenditure.

(a) Reports of all candidates and their campaign committee shall be made:

1. On the thirty-second day preceding an election, including all previous contributions and expenditures.

2. On the twelfth day preceding the date of the election.

3. Within thirty (30) days after the election.

4. Candidates shall have five (5) days from each filing deadline in which to get their reports into the hands of the registry.

(3) In making the preceding reports, proceeds from the sale of tickets for events such as testimonial affairs, dinners, luncheons, rallies and similar fund raising events, mass collections made at such events, and sales of items such as campaign pins, buttons, hats, ties, literature and similar materials, the total gross receipts from each category shall be listed. When any individual purchase or the aggregate purchases of any item enumerated above exceeds one hundred dollars ($100), the purchaser shall be identified by name, address and occupation and the amount purchased shall be reported to the registry. When the net proceeds of a fund raising event exceed the sum of $1,500, such sales shall be reported to the registry by name, address and occupation of the purchaser and the amount purchased. Such lists shall be maintained by the campaign treasurer or other sponsor for inspection by the registry for four (4) years following the date of the election.

(4) If the final statement shows an unexpended balance of contributions, continuing debts and obligations, or an expenditure deficit, the campaign treasurer shall file with the registry a supplemental statement of contributions and expenditures not more than thirty (30) days after the deadline for filing the final statement, and every sixty (60) days after the deadline for filing the first supplemental statement, an additional supplemental statement of contributions and expenditures. Subsequent supplemental statements shall be filed quarterly thereafter until the account shows an unexpended balance, continuing debts and obligations, expenditures, or deficit. A candidate does not have to file supplemental reports if the debt is the candidate's personal note.

(5) All reports filed under the provisions of this chapter shall be a matter of public record open to inspection by any member of the public immediately upon receipt of the report by the registry. A duplicate copy of each report filed with the registry shall be filed by the candidate or committee with the county court clerk in the county in which the candidate resides at the same time. County court clerks shall maintain these reports for public inspection for a period of one (1) year from the date the last report is required to be filed.

(6) If a candidate is unopposed in a primary or general election after the time prescribed by law for qualifying for nomination or election to the office, he is still obligated to file the reports required by KRS 121.015 and 121.100 to 121.200. A candidate who is opposed but receives no contribution or makes no expenditures shall so report on the dates designated in this section, and file all reports required by KRS 121.015 and 121.100 to 121.200.

[(7) Copies of those reports required to be filed by or on behalf of a candidate for the Congress of the United States pursuant to Title III of the Federal Election Campaign Act of 1971 shall be filed with the Registry on the dates prescribed in said Act in lieu of the reporting requirements of this section, subject to the penalties set forth in KRS 121.990.]

Section 16. KRS 118.780 and 118.790 are repealed.

SB 33, AN ACT relating to voter registration.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 116.045 is amended to read as follows:

(1) Any person may register as a voter during the period registration is open if he possesses, or will possess on the day of the next regular election, the qualifications set forth in KRS 116.025.

(2) Except during implementation of the initial statewide registration as provided in subsection (4) of KRS 116.025, the county board of elections shall cause all registration to be closed the thirty (30) days prior to, and the five (5) days following, any primary or general election, and the ten (10) days prior to any special election. No voter shall be registered or be permitted to change his registration during the period that the registration is closed; except that, registration shall be closed only in those precincts in which the election is held.

(3) In all counties the county clerk, when authorized by the county board, shall receive registration, transfers, or change of party affiliation at branch offices at any place in the county during those periods that the registration books are open. However, notice in the manner provided by KRS Chapter 424 must be given at

least three (3), but not more than fourteen (14), days in advance of the time and place of any branch registration, and ten (10) days' written notice must be given to the county executive committee of each major political party in the county in which the branch registration is to be held.

(4) Any person may register to vote or may change his party affiliation *in any of the following ways:*

(a) In person; [or]

(b) By mail; [.] *or*

(c) By such other methods of registration, or reregistration, as approved by the state board of elections, including the use of voluntary interested groups and political parties, under the proper supervision and directions of the county board of elections, which may include door to door canvassing. [He may apply to the county clerk in writing on the form prescribed by the state board of elections; and]

(5) Upon receipt of the form *prescribed by the state board of elections,* properly filled out and signed by the applicant, the *county* clerk shall register the applicant.

(6) Any individual or group shall have access to a reasonable number of voter registration forms in the county clerk's office. Such individual or group may return these completed forms to the county clerk for official registration by the county clerk.

Section 2. A new section of KRS Chapter 116 is created to read as follows:

Any individual who forges or fraudulently alters a form completed by the prospective registrant, who wilfully destroys a completed registration form or who wilfully fails to return a completed form to the county clerk for offical registration by the county clerk shall be subject to the penalties described for Class D felonies.

Section 3. A new section of KRS Chapter 116 is created to read as follows:

(1) The county clerk shall prepare and issue to each elector registered after July 1, 1976, a registration notification card of convenient size containing the name and residence address of the elector, the name or number of the precinct in which the elector resides, and a brief statement of the circumstances under which the elector is required to reregister.

(2) At the time he reregisters, each elector shall surrender any registration card in his possession previously issued to him, and the county clerk shall issue a new card to him.

(3) If an elector loses his registration card he may apply to the county clerk for a new card, and the county clerk shall issue a new card to him.

Section 4. KRS 116.105 is amended to read as follows:

(1) The county clerk is entitled to collect:

(a) For original registration, fifteen cents (15¢) for each person registered;

(b) For each voter registration notification card issued, fifteen cents (15¢) to be paid from the state treasury;

(c) [(b)] For copying for the use of any person, five cents (5¢) per name;

(d) [(c)] For making copies of lost, mutilated or destroyed records, ten cents (10¢) per name;

(e) [(d)] For services with relation to the purging of registration, ten cents (10¢) for each name ordered off or cancelled.

(2) The fees, *other than those under subsection (b),* shall be paid by the county, except where the copying is done for an individual at his request.

The Committee Amendment to **SB 33** is as follows:

Amend printed copy of Senate Bill 33 on page 3, line 2 strike the word "may" inserting in lieu thereof "shall".

The Committee on Judiciary-Courts reported **HB 431,** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 431, AN ACT relating to the retirement systems for judges and court personnel.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. KRS CHAPTER 28A IS ESTABLISHED AND A NEW SECTION THEREOF CREATED TO READ AS FOLLOWS:

(1) For the purposes of this chapter "retirement" means:
(a) Voluntary resignation, or
(b) Disability retirement, or
(c) Compulsory disability retirement by the judicial retirement and removal commission, or
(d) A failure of reelection, or
(e) Not seeking reelection.
"Retirement" shall not include a removal for cause.

(2) The word "service" as used in this chapter means service as a justice of the Supreme Court, or as a judge of the Court of Appeals, or as a regular circuit judge, including service in one and then another of those capacities. In addition, it means service as a commissioner of the former Court of Appeals or as a director of the administrative office of the courts prior to January 1, 1976, and service on or after that date, in any capacity in or for the Court of Justice, by a person who held the position of such commissioner or director on December 31, 1975.

(3) For the purposes of this chapter, a "year" of service means a total of twelve months of service, which need not be in the same calendar year. Service in any calendar month shall be deemed to constitute a month of service.

SECTION 2. A NEW SECTION OF KRS CHAPTER 28A IS CREATED TO READ AS FOLLOWS:

There is hereby created a judicial retirement system for justices of the Supreme Court, judges of the Court of Appeals, regular circuit judges, and other persons rendering service within the meaning of Section 1 of this Act. Those persons who were members on December 31, 1975, shall continue to be members so long as they render service, and any person thereafter taking office as a justice of the Supreme Court, judge of the Court of Appeals, or regular circuit judge may acquire membership in the system in accordance with the provisions of Section 3 of this Act.

SECTION 3. A NEW SECTION OF KRS CHAPTER 28A IS CREATED TO READ AS FOLLOWS:

Each justice of the Supreme Court, judge of the Court of Appeals, or regular circuit judge taking office after December 31, 1975, may within thirty (30) days after taking office, elect to make monthly contributions to the retirement system in an amount equal to three percent (3%) of his monthly official salary. The election shall be effective to establish membership in the system as of the date the justice or judge took office. The election shall be addressed to and filed with the secretary of the judicial retirement board and shall constitute an authorization by the member, to the secretary, to thereafter cause to be deducted from the member's official salary, each month, an amount equal to three percent (3%) of the monthly salary, as a voluntary contribution by the member toward the funding of the retirement system. Such election upon being made, and similar elections made under former KRS 21.360 or 21.365 prior to January 1, 1976, shall operate to create an inviolable contract between such member and the commonwealth, guaranteeing to and vesting in the member the rights and benefits provided for under the terms and conditions of this chapter. A new election is not required if a member's capacity of service is changed, so long as there is no break in the continuity of service.

SECTION 4. A NEW SECTION OF KRS CHAPTER 28A IS CREATED TO READ AS FOLLOWS:

Except as provided in subsection (2) of Section 7 of this Act and in subsection (2) of Section 8 of this Act, no benefits shall be payable under this chapter to any member or to his surviving spouse, unless he has completed at least eight (8) years of service, including service before becoming a member. No surviving spouse of a retired member shall be entitled to any benefits unless the person was the spouse of the member at the time he retired. If at the time a person becomes a member of the judicial retirement system he has service credit in the Kentucky employes retirement system, county employes retirement system, state police retirement system, or teachers retirement system, the period of service for which he earned that credit shall be counted toward the eight (8) years of service required by this section for vesting in the judicial retirement system, but shall not be counted as service for the purpose of computation of benefits.

SECTION 5. A NEW SECTION OF KRS CHAPTER 28A IS CREATED TO READ AS FOLLOWS:

The normal retirement date or age of a member shall be his sixty-fifth birthday; however, this chapter does not require that a member retire at the normal retirement date.

SECTION 6. A NEW SECTION OF KRS CHAPTER 28A IS CREATED TO READ AS FOLLOWS:

(1) A member who retires on or after his normal retirement date shall receive a service retirement allowance, payable monthly during his lifetime, in an amount per month equal to five percent (5%) of his final compensation multiplied by the number of years of service, including service before becoming a member of the system, but in no event to exceed one hundred percent (100%) of final compensation. For this purpose, "final compensation" means the average monthly compensation of the member for the sixty (60) months of service immediately preceding his retirement, including, in the case of a circuit judge, compensation received as special commissioner of the Court of Appeals.

(2) A member who retires before his normal retirement date shall be vested with the right to receive, when he reaches his normal retirement age, a service retirement allowance computed and payable in accordance with the provisions of subsection (1) of this section, on the basis of the number of years of his actual service.

(3) In lieu of the right provided for in subsection (2) of this section, a member who retires before his normal retirement age may elect, at any time before reaching his normal retirement age, to be paid commencing as of the time of the election a monthly service retirement allowance equal in amount to the monthly allowance that would have become payable under subsection (2) of this section when he reached his normal retirement age, reduced actuarially in accordance with his actual age at the time the election is made.

SECTION 7. A NEW SECTION OF KRS CHAPTER 28A IS CREATED TO READ AS FOLLOWS:

(1) If upon examination of a member under his normal retirement age by one (1) or more qualified physicians employed by the retirement board, it is certified to the satisfaction of the board that such member is so physically or mentally disabled as to be incapacitated for further performance of duty, and that such incapacity is likely to be permanent, the member may retire for disability. A member who so retires shall be entitled to receive commencing immediately a disability retirement allowance, payable monthly during his disability, in an amount equal to one-half (1/2) of the monthly service retirement allowance he would have received commencing at his normal retirement date if he had continued in service until that date and had then retired, computed however on the basis of his final compensation at time of actual retirement.

(2) A member need not have completed eight (8) years of service in order to be eligible for benefits under subsection (1) of this section.

(3) The retirement board shall cause a member who has been retired for disability and who is still under his normal retirement age to undergo periodic examination by one (1) or more qualified physicians employed by the board, to determine whether he continues to be incapacitated for service of the character required of a justice or judge. If upon any such examination it is certified to the satisfaction of the board that the member is no longer so incapacitated, or if the member refuses to submit to examination, the board shall terminate his disability retirement allowance. He shall then be entitled to such rights, if any, under subsection (2) or (3) of Section 6 of this Act as he would have been entitled to had he voluntarily retired on the date he was retired for disability.

(4) Upon reaching his normal retirement age, a member who has been receiving a disability retirement allowance may apply for and receive, in lieu thereof, the service retirement allowance he would have been entitled to receive at normal retirement age had he voluntarily retired on the date he was retired for disability.

(5) The provisions of this section with respect to benefits shall be applicable in case of compulsory retirement for disability under Section 121 of the Constitution of Kentucky. The retirement board, in the case of such a retirement, shall exercise no function with respect to the existence or continuance of disability.

SECTION 8. A NEW SECTION OF KRS CHAPTER 28A IS CREATED TO READ AS FOLLOWS:

(1) After the death of a member who at the time of his death was receiving a service retirement allowance (other than an actuarially reduced allowance under subsection (3) of Section 6 of this Act), or was receiving a disability retirement allowance, his surviving spouse is entitled to receive during his lifetime a monthly allowance equal to one-half (1/2) of that he was receiving.

(2) (a) If a member dies before retirement and before reaching normal retirement age, without regard to length of service, his surviving spouse is entitled to receive during his lifetime a monthly allowance equal to one-half (1/2) of the monthly allowance the member would have received commencing at his normal retirement date if he had continued in service until that date and had then retired, computed however on the basis of his final compensation at time of death.

(b) If a member dies before retirement and after reaching normal retirement age, his surviving spouse is entitled to receive during his lifetime a monthly allowance equal to one-half (1/2) of the monthly allowance the member would have been entitled to, on the basis of his years of service, had he retired on the date of his death.

(3) If a member dies after retirement and was at the time of his death receiving an actuarially reduced allowance under subsection (3) of Section 6 of this Act, or was not at the time of his death receiving a retirement allowance but had acquired the vested right under subsection (2) of Section 6 of this Act to have received an allowance upon reaching normal retirement age, his surviving spouse is entitled to receive during his lifetime a monthly allowance equal to one-half (1/2) of the monthly allowance the member would have received when he reached normal retirement age.

SECTION 9. A NEW SECTION OF KRS CHAPTER 28A IS CREATED TO READ AS FOLLOWS:

In any circumstances in which a surviving spouse would be entitled to any allowance under Section 6 of this Act, but there is no surviving spouse or the surviving spouse subsequently dies, and there is a surviving child or children of the member under the age of eighteen (18), the monthly allowance that the surviving spouse would have received or was receiving shall be continued for the benefit of such child or children remaining under the age of eighteen (18) until there are none under the age of eighteen (18).

SECTION 10. A NEW SECTION OF KRS CHAPTER 28A IS CREATED TO READ AS FOLLOWS:

(1) The monthly judicial retirement benefit of every person who is receiving such benefit as of July 1, 1976, shall be increased by one percent (1%) for each year, or major portion of a year, that has elapsed since the termination of the service on which the benefit was based, not exceeding a maximum of ten (10) years. Those of the above recipients of benefits who are in the following categories shall receive the designated additional increase in benefit:

(a) Where the service on which the benefit was based terminated between July 1, 1972, and June 30, 1974, two percent (2%);

(b) Where the service on which the benefit was based terminated between July 1, 1968, and June 30, 1972, six percent (6%);

(c) Where the service on which the benefit was based terminated prior to July 1, 1968, fifteen percent (15%).

(2) On July 1 of each year, commencing with 1977, the judicial retirement benefit then being received by every person whose benefit is based on service that terminated more than six (6) months prior thereto shall be increased by one percent (1%).

(3) The purpose of this section is to provide reasonable adjustments for cost-of-living increases.

SECTION 11. A NEW SECTION OF KRS CHAPTER 28A IS CREATED TO READ AS FOLLOWS:

A judicial retirement board is created to consist of five (5) members, three (3) of whom shall be appointed by the Supreme Court and two (2) by the Governor. The appointments by the Supreme Court may be from among the members of the system. The members of the board shall serve for terms of four (4) years, commencing as of June 16, 1960, and until their successors are appointed and have qualified. The members shall annually elect a chairman. Vacancies shall be filled by the original appointing authority, for the unexpired term. Board members who do not otherwise receive a salary from the state treasury shall receive one hundred dollars ($100) for each day they are in session or on official duty. All members shall be reimbursed for their necessary expenses.

SECTION 12. A NEW SECTION OF KRS CHAPTER 28A IS CREATED TO READ AS FOLLOWS:

The judicial retirement board shall:

(1) Be charged with the administration of this chapter and for that purpose may make reasonable rules and regulations;

(2) Provide for the funding of the benefits provided for by this chapter, including the adoption of actuarial methods and assumptions upon the advice of a competent actuary who may be employed for that purpose;

(3) Pass upon questions of eligibility, and maintain suitable records for that purpose;

(4) Pass upon questions of disability, except for those persons retired by the judicial retirement and removal commission pursuant to Section 121 of the Constitution of Kentucky, and employ examining physicians for that purpose.

SECTION 13. A NEW SECTION OF KRS CHAPTER 28A IS CREATED TO READ AS FOLLOWS:

The benefits provided by this chapter to be paid shall be funded through contract with a reputable life insurance company authorized to do business in this state, or through investment and reinvestment of funds in securities which, at the time of making the investment, are by law permitted for the investment of funds by fiduciaries in this state, or through a combination of such methods. To the extent that funding is provided through insurance contract no contributions, payments or premiums shall be subject to any tax on insurance premiums or annuity considerations. The judicial retirement board shall be trustee of any and all funds contributed or appropriated to the retirement system, and shall have sole authority to make insurance contracts or investments. The state treasurer shall be the custodian of the cash of the system, and shall be responsible on his official bond therefor. The judicial retirement board shall appoint a custodian of the securities acquired under the authority of this section, who shall be responsible for the safekeeping of the securities in his custody. All registered securities acquired under the authority of this section shall be registered in the name "Kentucky Judicial Retirement System" or nominee name as provided in KRS 287.225, and every change in registration, by reason of sale or assignment of such securities, shall be accomplished by the signatures of the chairman, or a board member appointed by the chairman, and of the secretary-treasurer of the system.

SECTION 14. A NEW SECTION OF KRS CHAPTER 28A IS CREATED TO READ AS FOLLOWS:
If any member of the system ceases, other than by death or by disability retirement, to hold an office qualifying him for membership in the system established by this chapter without having completed eight (8) years of service, he shall be refunded on demand the amount of his accumulated contributions. If thereafter he becomes again the holder of an office qualifying him for membership in the system, he shall not be entitled to credit for his prior period of service unless at the time of his election to again participate in the system he repays to the system the amount that was refunded to him.

SECTION 15. A NEW SECTION OF KRS CHAPTER 28A IS CREATED TO READ AS FOLLOWS:
All retirement allowances and other benefits accrued or accruing to any person under the provisions of this chapter are hereby exempted from any state, county or municipal tax, and shall not be subject to execution, attachment, garnishment or any other process whatsoever, nor shall any assignment thereof be enforceable in any court.

SECTION 16. A NEW SECTION OF KRS CHAPTER 28A IS CREATED TO READ AS FOLLOWS:
It is hereby declared that in consideration of the contributions by the members, and in further consideration of benefits received by the state through the inducement of qualified and experienced justices and judges to continue in service, this chapter shall constitute an inviolable contract of the commonwealth, and the rights and benefits provided therein shall not be subject to reduction or impairment by alteration, amendment or repeal.

SECTION 17. A NEW SECTION OF KRS CHAPTER 28A IS CREATED TO READ AS FOLLOWS:
No person may simultaneously earn service credit in the judicial retirement system and any other retirement system of this state or any of its political subdivisions.

SECTION 18. A NEW SECTION OF KRS CHAPTER 28A IS CREATED TO READ AS FOLLOWS:
The new provisions of this Act are intended to provide for the continuation in amended form of the previously existing judicial retirement system. The Supreme Court shall provide for the continued payment of such benefits as were payable under the former provisions of KRS 21.500.

SECTION 19. A NEW SECTION OF KRS CHAPTER 28A IS CREATED TO READ AS FOLLOWS:
For the purposes of this chapter there is appropriated to the judicial retirement board all sums received from contributions of members of the judicial retirement system. All sums appropriated or transferred to the judicial retirement board shall be deemed to constitute a continuing fund which shall not lapse at the end of any fiscal year.

SECTION 20. A NEW SECTION OF KRS CHAPTER 28A IS CREATED TO READ AS FOLLOWS:
All of the assets of the former special circuit judge fund which heretofore were transferred to the judicial retirement board shall be available to that board for the purposes of this chapter. Provided, however, that so long as any of the special circuit judges appointed under former KRS 23.300 to 23.380 prior to July 1, 1962, continue in service and so long as any circuit judge who made contributions to the special circuit judge fund prior to July 1, 1962, continues to be a member of the judicial retirement system established by this Act or he draws benefits thereunder the assets so transferred and the income therefrom shall be held separate and apart for the purpose of paying compensation to such special circuit judges or benefits to such circuit judges; provided, further, that the assets of the judicial retirement board as of June 30, 1962, and the income therefrom, shall also be held separate and apart for the purpose of paying benefits to the judges and regular commissioners of the Court of Appeals or their surviving spouses who were members of the judicial retirement system as of that date or who, having been members, theretofore retired. Any appropriations or contributions to the judicial retirement board for fiscal years beginning on or after July 1, 1962, shall be available, without separation, for all of the purposes of this chapter.

Section 21. KRS 21.350 to KRS 21.520 is repealed.

The Committee Substitute for **HB 431** is as follows:

HB 431, AN ACT relating to the retirement system for judges and court personnel.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 21.345 TO 21.480 IS CREATED TO READ AS FOLLOWS:

(1) The judicial retirement system established by KRS 21.350 to 21.480 shall extend to and embrace justices of the Supreme Court and judges of the Court of Appeals created by Section 111 of the Constitution of Kentucky. Judges of the former Court of Appeals who became justices of the Supreme Court on January 1, 1976, by virtue of the provisions of Section 2 of the Amendment to the Kentucky Constitution proposed by Chapter 84 of the Acts of 1974 shall not be required to make a new election to participate in the judicial retirement system. Justices of the Supreme Court and judges of the Court of Appeals taking office after January 1, 1976, shall participate in the system only upon election to participate in accordance with KRS 21.360.

(2) Membership in the judicial retirement system shall be confined to justices of the Supreme Court, judges of the Court of Appeals, and circuit judges, except that any person who held the office of commissioner of the Court of Appeals or director of the administrative office of the courts on December 31, 1975, shall continue in membership so long as he continues to render service in any capacity in or for the Court of Justice. The limitation of membership made by this subsection does not affect rights to benefits based on service rendered before this Act took effect.

SECTION 2. A NEW SECTION OF KRS 21.345 TO 21.480 IS CREATED TO READ AS FOLLOWS:

If at the time a person becomes a member of the judicial retirement system he has service credit in the Kentucky Employes Retirement System, County Employes Retirement System, State Police Retirement System, or Teachers Retirement System, but not enough to have obtained vesting in the system in which he has that credit, the period of service for which he earned that credit shall be counted toward the eight (8) years of service required for vesting in the Judicial Retirement System, but shall not be counted as service for the purpose of computation of benefits.

SECTION 3. A NEW SECTION OF KRS 21.345 TO 21.480 IS CREATED TO READ AS FOLLOWS:

Retirement benefits for a justice of the Supreme Court, judge of the Court of Appeals, or circuit judge retired for disability under Section 121 of the Constitution of Kentucky shall be in accordance with KRS 21.410. The Judicial Retirement Board, in the case of such a retirement, shall exercise no function with respect to determining the existence or continuance of disability.

Section 4. KRS 21.430 is amended to read as follows:

A judicial retirement board is created to consist of five (5) members, three (3) of whom shall be appointed by the Supreme Court and two (2) by the Governor. The appointments by the Supreme Court may be from among the members of the system. The members of the board shall serve for terms of four (4) years, commencing as of June 16, 1960, and until their successors are appointed and have qualified. The members shall annually elect a chairman. Vacancies shall be filled by the original appointing authority, for the unexpired term. Board members who do not otherwise receive a salary from the state treasury shall receive sixty dollars ($60) for each day they are in session or on official duty. All members shall be reimbursed for their necessary expenses. [A judicial retirement board is created to consist of five (5) members, three (3) of whom shall be appointed by the Court of Appeals and two (2) by the governor. The appointments by the Court of Appeals may be from among the members of the system. The members of the board shall serve for terms of four (4) years, commencing as of June 16, 1960, and until their successors are appointed and have qualified. The members shall annually elect a chairman. They shall serve without compensation. Vacancies shall be filled by the original appointing authority, for the unexpired term.]

SECTION 5. A NEW SECTION OF KRS 21.345 TO 21.480 IS CREATED TO READ AS FOLLOWS:

The Judicial Retirement Board shall appoint a custodian of the securities acquired under authority of KRS 21.450, who shall be responsible for the safekeeping of the securities in his custody. All registered securities acquired under the authority of KRS 21.450 shall be registered in the name "Kentucky Judicial Retirement System" or nominee name as provided in KRS 287.225, and every change in registration, by reason of sale or assignment of such securities, shall be accomplished by the signatures of the chairman, or a board member appointed by the chairman, and of the secretary-treasurer of the system.

The Committee on Judiciary-Statutes reported **HB 289, HB 290, HB 407, HB 446, HB 479, SB 21,** and **HB 271** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 289, AN ACT relating to adoption.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 199.490 is amended to read as follows:

(1) The petition shall allege:

(a) The name, date and place of birth, place of residence and mailing address of each petitioner, and if married, the date and place of their marriage;

(b) The name, date and place of birth, place of residence and mailing address, if known, of the child sought to be adopted;

(c) Relationship, if any, of the child to each petitioner;

(d) Full name by which the child shall be known after adoption;

(e) A full description of the property, if any, of the child so far as it be known to the petitioner;

(f) The names of the parents of the child and the address of each living parent, if known, provided the name of the natural father of a child born out of wedlock shall not be given unless paternity is established in a legal action, or unless an affidavit is filed stating that the affiant is the father of the child, or if certified copies of orders terminating parental rights are filed as provided in subsection (2) of this section, the name of any parent whose rights have been terminated shall not be given;

(g) The name and address of the child's guardian, if any, or of the department, institution or agency having legal custody of the child;

(h) Any further facts necessary for the location of the person or persons whose consent to the adoption is required, or whom KRS 199.480 requires to be made a party to or notified of the proceeding; and

(i) If any fact herein required to be alleged is unknown to the petitioners, such lack of knowledge must be alleged.

(2) There shall be filed with the petition [any sworn consent or consents to adoption and] certified copies of any orders terminating parental rights. *Any consent to adoption shall be filed prior to the entry of the adoption judgment.*

HB 290, AN ACT relating to eminent domain.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 416 is created to read as follows:

(1) Any department, instrumentality or agency of city, county, or urban county government which determines that certain real property is necessary for its use, shall, when unable to agree with the owner thereof on a price for such real property, request the governing body of the city, county, or urban county to institute condemnation proceedings on its behalf. If the governing body of the city, county, or urban county so agrees, all costs involved in the condemnation shall be borne by the department, instrumentality or agency requesting the condemnation. The city, county, or urban county may use any condemnation procedure provided by law.

(2) Any department, instrumentality or agency of the Commonwealth of Kentucky which determines that certain real property is necessary for its use, shall, when unable to agree with the owner thereof on a price for such real property, request the Executive Department for Finance and Administration to institute condemnation proceedings on its behalf. If the Department for Finance and Administration so agrees, all costs involved in the condemnation of the property shall be borne by the department, instrumentality or agency requesting the condemnation. The department may condemn the property in any manner provided in KRS Chapter 416 or in accordance with the provisions of KRS 177.081 through 177.089.

Section 2. KRS 36.070 is amended to read as follows:

The facilities division shall be headed by a director experienced in the administration of real property. The division may make contracts, *and may* acquire real and personal property by gift [,] *or* purchase [, or by condemnation in the manner prescribed in KRS 416.120,] and may do all things necessary to perform its duties under KRS 36.070 to 36.090.

Section 3. KRS 36.080 is amended to read as follows:

(1) The facilities division shall provide adequate armories, buildings and grounds for the Kentucky army and air national guard for its purposes of drill, instruction and administration and for the safekeeping of public property of the state and the United States issued to or for the use of the Kentucky national guard.

(2) The facilities division may, either alone or in cooperation with the United States government, counties, cities, private corporations, voluntary unincorporated associations or individuals, construct, or acquire by purchase, contract, lease, gift [,] *or* donations [, or by condemnation in the manner prescribed in KRS 416.120,] armories, buildings or grounds suitable for drill, instruction and administration and the safekeeping of public property, and make additions and improvements in or to such armories and facilities. The division may, either alone or with the like cooperation of others, provide heat, light, water, telephone service and other costs of operation and maintenance, including insurance.

(3) The amounts to be spent for the construction, acquisition, maintenance and rental of armories shall be wholly within the discretion of the adjutant general.

Section 4. KRS 45.360 is amended to read as follows:

(1) The director of engineering for contractual services related to real property and capital construction projects and the director of purchases for other purchasing services, under the direction of the commissioner of the executive department for finance and administration, shall purchase, or shall delegate and control the purchase of, the combined requirements of all spending agencies of the state including, but not limited to, interests in real property, contractual services, rentals of all types, supplies, materials, equipment, and services, except that competitive bids may not be required:

(a) For contractual services where no competition exists, such as telephone service, electrical energy, and other public utility services;

(b) When in the judgment of the director of purchases food, clothing, equipment, supplies, or other materials to be used in laboratory and experimental studies can be purchased otherwise to the best advantage of the state; and instructional materials available from only one (1) source;

(c) Where rates are fixed by law or ordinance;

(d) For library books;

(e) For commercial items that are purchased for resale;

(f) For professional, technical, or artistic services (Contracts exempted by this provision shall be referred to the department of personnel for review and approval.);

(g) For all other commodities, equipment and services which, in the reasonable discretion of the director of purchases, are available from only one (1) source; and

(h) Interests in real property.

(2) Nothing in this section shall deprive the executive department for finance and administration from negotiating with vendors who maintain a general service administration price agreement with the United States of America or any agency thereof, provided, however, that no contract executed under this provision shall authorize a price higher than is contained in the contract between general service administration and the vendor affected.

(3) The executive department for finance and administration shall have supervision over all purchases by the various spending agencies, except as otherwise provided by law, and shall prescribe rules and regulations to govern purchasing by or for all such agencies, subject to the approval of the commissioner of the executive department for finance and administration, and shall publish a manual of procedures to be distributed to agencies and to be revised upon issuance of amendments to such procedures. No purchase or contract shall be binding on the state or any agency thereof unless approved by the department or made under general regulations which the executive department for finance and administration may prescribe.

(4) The executive department for finance and administration shall adopt regulations to require agencies to take and maintain inventories of plant and equipment. The executive department for finance and administration shall conduct periodic physical audits of inventories.

(5) The director of purchases shall require all agencies to furnish an estimate of specific needs for supplies, materials, and equipment to be purchased by competitive bidding for the purpose of permitting scheduling of purchasing in large volume. He shall establish and enforce schedules for purchasing supplies, materials, and equipment. In addition, all agencies shall submit to the director of purchases prior to the beginning of each fiscal year an estimate of all needs for supplies, materials, and equipment during that year which will have to be acquired through competitive bidding.

(6) The executive department for finance and administration shall have power, with the approval of the commissioner of the executive department for finance and administration, to transfer between departments, to salvage, to exchange, and to condemn supplies, equipment, and real property.

(7) The executive department for finance and administration shall sell or otherwise dispose of all property (including any interest in real property) of the state which is not needed or has become unsuitable for public use, or would be more suitable consistent with the public interest for some other use, as determined by the commissioner of the executive department for finance and administration. The determination of the commissioner of the executive department for finance and administration shall be set forth in an order, and shall be reached only after review of a written request by the agency desiring to dispose of the property. Such request shall describe the property and state the reasons why the agency believes disposal should be effected.

All instruments required by law to be recorded which convey any interest in any such real property so disposed of shall be executed and signed by the commissioner of the executive department for finance and administration and approved by the governor. Unless the commissioner of the executive department for finance and administration deems it in the best interest of the state to proceed otherwise, all such property (including any interests in real property) shall be sold either by invitation of sealed bids or by public auction, provided however that the selling price of any interest in real property shall not be less than the appraised value thereof as determined by the department of revenue, or bureau of highways for such requirements of that department.

(8) Except as provided in KRS chapters [175,] 176, 177 and 180, the executive department for finance and administration shall purchase or otherwise acquire all real property determined to be needed for state use, upon the approval of the commissioner of the executive department for finance and administration as to the determination of need and as to the action of purchase or other acquisition, provided that the amount paid shall not exceed the appraised value as determined by the department of revenue, bureau of highways (for such requirements of that department), or value set by eminent domain procedure.

(9) Real property or any interest therein may be purchased, leased, or otherwise acquired from any officer or employe of any agency of the state upon a finding by the executive department for finance and administration, based upon a written application by the head of the agency requesting the purchase, and approved by the commissioner of the executive department for finance and administration and the governor, that the employe has not either himself or through any other person influenced or attempted to influence either the agency requesting the purchase of the property of the executive department for finance and administration in connection with such acquisition. In any case in which such an acquisition is consummated, the said request and finding shall be recorded and kept by the secretary of state along with the other documents recorded pursuant to the provisions of KRS chapter 56.

(10) The executive department for finance and administration shall maintain records of all purchases and sales made under its authority and shall make periodic summary reports of all transactions to the commissioner of the executive department for finance and administration, the governor, and the general assembly. The executive department for finance and administration shall also report trends in costs and prices, including savings realized through improved practices, to the above.

(11) For capital construction projects, the bidding may be on a total design-bid basis; a package system commonly referred to as "turn key"; phase bidding commonly referred to as "fast track"; or construction management, whichever in the judgment of the commissioner of the executive department for finance and administration offers the lowest real cost to the taxpayer. Bids when delegated to and are received by construction managers shall be reviewed by the engineering staff to assure quality and value, and compliance with bid procedures. All specifications shall be written to promote competition.

(12) The director of purchases and the director of the division of engineering shall attempt in every practicable way to insure the state's supplying its real needs at the lowest possible cost.

Section 5. KRS 56.463 is amended to read as follows:

The department shall have the power and duty:

(1) To determine the comparative needs and demands of the various state agencies for acquiring real estate and for building projects.

(2) To purchase or otherwise acquire all real property determined to be needed for state use and upon the approval of the commissioner of the executive department for finance and administration as to the determination of need and as to the action of purchase or other acquisition, except as provided in KRS chapters [175,] 176, 177, and 180. All such acquisitions of real property or interests therein shall be made in accordance with KRS 45.360.

(3) To sell or otherwise dispose of all property, including any interest in real property, of the state that is not needed or has become unsuitable for public use or would be more suitable consistent with the public interest for some other use as determined by the commissioner of the executive department for finance and administration. All such sales or other disposition shall be made in accordance with KRS 45.360.

(4) (a) To control the use of any real property owned or otherwise held by the commonwealth, or any state agency, and to determine for what periods of time and for what purposes any state agency may use the same, including the agency for whose use it was initially acquired or improved, and to determine what appropriate uses shall be made of such real property during periods that the department finds the same is not required for the purposes of any particular state agency.

(b) To determine the housing and furnishings needs of the various state agencies located in Frankfort and to establish and put into effect a permanent program for housing them. The department is also authorized and directed to allocate office space and furnishings in existing public buildings located in Frankfort, exclusive of the third and fourth floors of the new state capitol, according to the needs of the various agencies and when necessary to provide additional office space and furnishings in Frankfort under any building program the department deems most advisable and economical for the state. The permanent housing program shall include provisions for housing the general assembly and its related agencies, including the legislative research commission, and its subcommittees, the executive offices, the Court of Appeals and the clerk of the Court of Appeals, the department of law and the law library, in the new state capitol, provided the general assembly and the legislative research commission shall have complete control and exclusive use of the third and fourth floors of the new state capitol. If there be any additional space in the capitol, it shall be assigned to agencies whose activities are most closely related to the agencies directed to be located permanently in the capitol.

(5) To acquire, by condemnation in any manner provided in KRS chapter 416, or KRS 177.081 to 177.089, any real estate necessary for use by the state or by any state agency, when the department is unable to agree with the owner thereof on a price for such real estate.

(6) To lease any real property, or any interest in such real property, owned by the state or any agency thereof, in accordance with KRS 45.360.

(7) To provide for and adopt such plans and specifications as may be necessary, to advertise for and receive bids for any expenditures proposed to be made, to award contracts for the purpose authorized, to supervise construction and make such changes and revisions in plans and specifications or in construction as may become necessary, and generally to do any and all other things as may become necessary or expedient in order to effectively fulfill and carry out the purposes of this chapter, including the right to employ such clerks, engineers, statisticians, architects or other persons required to be employed in order to fulfill the functions of the commonwealth relating to state property and buildings provided in KRS 56.450 to 56.550.

(8) To adopt such rules and regulations as may be necessary to govern the acquisition, control, and disposition of the real property to which this section is applicable.

Section 6. KRS 58.220 is amended to read as follows:

The authority may:

(1) Construct, reconstruct, maintain, repair, operate, and regulate projects at such locations within the city of Frankfort, Kentucky, as may be determined by the authority;

[(2) Acquire any interests in real property pursuant to the condemnation procedures of KRS chapter 416 or 177.081 to 177.089;]

(2) [(3)] Notwithstanding KRS chapter 56, the authority may issue revenue bonds payable solely from the charges, revenues, rentals, and other funds pledged for their payment, for the purpose of paying all or any part of the cost of any project or for the acquisition of property;

(3) [(4)] Sell any building, structure, facility or any interests in land to the commonwealth of Kentucky, the federal, city, or county government, or any person or corporation;

(4) [(5)] Lease any interest in real property, any building, facility, or structure to the commonwealth of Kentucky, the federal, city, or county government or to any person or corporation;

(5) [(6)] Fix and revise from time to time the charges and rent payments which will be paid by the different lessees for the use of the land, buildings and parking facilities;

(6) [(7)] Combine for financing purposes any two (2) or more projects;

(7) [(8)] Establish and enforce rules, specifications, and regulations for the construction and use of any project, except during any period when such powers are assigned to a lessee pursuant to a lease agreement;

(8) [(9)] Notwithstanding KRS chapter 56, to acquire and hold in the name of the authority real and personal property in the exercise of its powers and the performance of its functions and duties under KRS 58.210 to 58.315, and to dispose of these interests in property;

(9) [(10)] Make and enter into such contracts and agreements with the commonwealth of Kentucky or any federal, city, or county government or other person or corporation as may be necessary or incidental to the effectiveness of a well-planned complex;

(10) [(11)] Employ consulting engineers, attorneys, accountants, construction and financial experts, superintendents, managers, and such other employes and agents as may be necessary in the judgment of the authority, and to fix their compensation;

(11) [(12)] Receive and accept from the commonwealth, the department, any federal agency, and the city or county, grants for or in aid of the construction of any project, and receive and accept aid or contributions from any source of either money, property, labor or other things of value, to be held, used and applied for the purposes for which such grants and contributions may be made; and

(12) [(13)] Do all acts necessary and proper to carry out the powers expressly granted in KRS 58.210 to 58.315.

Section 7. KRS 58.275 is amended to read as follows:

[(1)] The authority may purchase, whenever it shall deem such purchase expedient, from funds provided pursuant to KRS 58.210 to 58.315, lands, structures, property, rights, rights of way, franchises, easements and other interests in land, including lands lying under water and riparian rights, which are located within the commonwealth, as it may deem necessary or convenient for the construction and operation of any project, upon such terms and at such prices as may be considered by it to be reasonable and can be agreed upon between it and the owner thereof, and to take title thereto in the name of the authority.

[(2) If a reasonable price cannot be agreed upon, or if the owner is legally incapacitated or is absent, unknown or unable to convey valid title, the authority may acquire by condemnation or by eminent domain any lands, property, rights of way, franchises, easements and other property, including public lands, parks, playgrounds, reservations, highways or parkways, or parts thereof or rights therein, of any person, partnership, association, railroad, public service, public utility or other corporation, or municipality or political subdivision, deemed necessary or convenient for the construction or the efficient operation of any project or necessary in the restoration of public or private property damaged or destroyed. Any such proceedings shall be conducted, and the compensation to be paid shall be ascertained and paid, in the manner provided by the constitution and laws of the commonwealth which relate to condemnation or to the exercise of the power of eminent domain. Title to any property acquired by the authority shall be taken in the name of the authority. In any condemnation proceedings the court having jurisdiction of the suit, action or proceeding may make such orders as may be just to the authority and to the owners of the property to be condemned and may require an undertaking or other security to secure such owners against any loss or damage by reason of the failure of the authority to accept and pay for the property, but neither such undertaking or security nor any act or obligation of the authority shall impose any liability upon the commonwealth except as may be paid from the funds provided under KRS 58.210 to 58.315.

(3) If the owner, lessee or occupier of any property to be condemned shall refuse to remove his personal property therefrom or give up his possession thereof, the authority may proceed to obtain possession in any manner provided by law.]

Section 8. KRS 65.530 is amended to read as follows:

(1) The purposes of the authority shall be to establish, maintain, operate and expand necessary and proper riverport and river navigation facilities, and to acquire and develop property, or rights therein within the economic environs of the riverport or proposed riverport to attract directly or indirectly river-oriented industry. It shall have the duty and such powers as may be necessary or desirable to promote and develop navigation, river transportation, riverports, and riverport facilities, and to attract industrial or commercial operations to the property held as industrial parks.

(2) The authority shall establish and fix reasonable rates, charges and fees for the use of the riverport facilities which shall be published in a newspaper of general circulation in the county in which the riverport is located. In fixing such rates, charges or fees the authority may take into consideration, among other factors, the total capital investment of the authority, the revenue needed properly to maintain such facilities, the revenue needed properly to expand the riverport and its facilities, the portion of the facilities utilized by the licensee or contracting party and its customers and the volume and type of business conducted. Any party aggrieved by the rates, charges or fees may appeal from the action of the authority to the circuit court of the county within which the authority operates, within ninety (90) days from the date that the authority finally publishes such rates, charges or fees and gives notice of same to the contracting party or licensee. The circuit court may hear evidence and determine whether or not the rates, charges or fees are, or are not, reasonable in amount. Appeal from the judgment of the circuit court may be prosecuted as any other civil appeal.

(3) The authority shall also have power, from time to time, to fix rates, charges or fees by contract, or by publishing general rates, charges or fees for commercial vendors, concessionaires or other persons for the use or occupancy of riverport facilities under such terms and conditions as it may deem to be in the best interest of maintaining, operating or expanding necessary riverport facilities, and the public use thereof.

(4) The authority may acquire by contract, lease, purchase, option [,] *or* gift [, condemnation or otherwise] any real or personal property, or rights therein, necessary or suitable for establishing, developing, operating or expanding riverports, riverport facilities, water navigation facilities, including spoilage areas for the disposal of materials dredged from river bottoms in an effort to improve the navigability of rivers, and industrial parks or sites within the economic environs of the riverport or proposed riverport. The authority may erect, equip, operate and maintain on such property buildings and equipment necessary and proper for riverport and water navigation facilities. The authority may dispose of any real or personal property, or rights therein, which in the opinion of the authority is not needed for use as riverport or water navigation facilities, or use as industrial parks or sites. The authority may lease, sell, convey, or assign its interest in land owned, optioned, or otherwise held by it to any person for the purpose of constructing and/or operating any industrial or commercial facility or for the purpose of acting as the authority's agent or licensee in effectively carrying out any of its powers and duties.

[(5) With the consent of the legislative body of the governmental unit in which the property to be condemned is located, the authority may by resolution, reciting that the property cannot be acquired by purchase or agreement and is needed for riverport, water navigation, or industrial purposes in accordance with the powers set forth in subsection (4) of this section, direct the condemnation of any property. The procedure for condemnation shall conform to the procedure set out in KRS 58.140.]

(5)[(6)] The authority may apply for, receive authorization for, establish and operate a foreign trade zone, as permitted by 19 U. S. C. section 81, provided approval is obtained from the Kentucky port and river development commission.

Section 9. KRS 74.470 is amended to read as follows:

For the purpose of acquiring, either by purchase or construction, sources of supply of water or for making improvements and extensions to sources of supply of water such a commission is authorized to issue revenue bonds payable solely from the revenues to be derived pursuant to water supply contracts with the cities, water districts, political subdivisions or other public bodies as provided in KRS 74.420 to 74.520 and for that purpose the commission may issue such revenue bonds and be vested with all of the powers, duties and responsibilities *except* [including] the power of condemnation as are delegated and granted to a "governmental agency" under the terms and provisions of KRS chapter 58 as said law now exists or as it may hereafter be amended and under said law the term "governmental agency" means the "commission" and the term "public project" means "sources of supply of water."

Section 10. KRS 76.080 is amended to read as follows:

The district created under the provisions of KRS 76.010 to 76.210 is empowered:

(1) To have jurisdiction, control, possession, and supervision of the existing sewer and drainage system of the city of the first or second class; to maintain, operate, reconstruct, and improve the same as a comprehensive sewer and drainage system; to make additions, betterments, and extensions thereto within the district area; and to have all the rights, privileges, and jurisdiction necessary or proper for carrying such powers into execution. No enumeration of powers in KRS 76.010 to 76.210 shall operate to restrict the meaning of this general grant of power or to exclude other powers comprehended within this general grant.

(2) To prepare or cause to be prepared and to be thereafter revised and adopted, plans, designs, and estimates of costs, of a system of trunk, intercepting, connecting, lateral, and outlet sewers, storm water drains, pumping and ventilating stations, disposal and treatment plants and works, and all other appliances and structures which in the judgment of the board will provide an effective and advantageous means for relieving the district area from inadequate sanitary and storm water drainage and from inadequate sanitary disposal and treatment of the sewage thereof, or such sections or parts of such system of the district area as the board may from time to time deem proper or convenient to construct, consistent with the plans and purposes of KRS 76.010 to 76.210, and may take all steps the board deems proper and necessary to effect the purposes of KRS 76.010 to 76.210.

(3) To construct any additions, betterments and extensions to the facilities of the district, within or without the district area, and to construct any construction subdistrict facilities or additions, betterments and extensions thereto, within or without the district area, by contract or under, through, or by means of its own officers, agents and employes. No construction or extensions shall be started within the city of the first or second class until, firstly, the city's director of works, and secondly, its board of aldermen have approved the plans. No construction or extensions shall be started in any city of the second, third, or fourth class until the governing authorities of such city or cities have approved the plans. No construction or extensions shall be started in any other part of the county until the plans have been approved, firstly, by the county engineer and, secondly, by the fiscal court.

(4) To establish, construct, operate, and maintain, as a part of the sewer and drainage system of the district, sewage treatment and disposal plants and systems and all the appurtenances and appliances thereunto belonging. The sewage treatment and disposal plants may be located in the city, or beyond the limits of the city in the county in which the city is located, as the board deems expedient.

(5) To acquire and hold the personal property the board deems necessary and proper for carrying out the corporate purposes of the district and to dispose of personal property when the district has no further need therefor.

(6) To acquire by purchase, gift [,] *or* lease [, or by condemnation,] real property or any interest, right, easement, or privilege therein, as the board determines necessary, proper and convenient for the corporate purposes of the district, and to use the same so long as its corporate existence continues, and same is necessary or useful for the corporate purposes of the district. [Condemnation proceedings may be instituted in the name of the district pursuant to a resolution of the board declaring the necessity for the taking, and the method of condemnation shall be the same as provided in KRS 416.120.] When the board by resolution declares that any real property which it has acquired, or any interest therein, is no longer necessary or useful for the corporate purposes of the district, the real property and interest therein may be disposed of.

(7) To make bylaws and agreements for the management and regulation of its affairs and for the regulation of the use of property under its control and for the establishment and collection of sewer rates, rentals and charges, which sewer rates, rentals and charges, applicable within the limits of a city of the first or second class, shall be subject to the approval, supervision and control of the legislative body of the city as hereinafter provided.

(8) To make contracts and execute all instruments necessary or convenient in the premises.

(9) To borrow money and to issue negotiable bonds and to provide for the rights of the holders thereof.

(10) To fix and collect sewer rates, rentals, and other charges, for services rendered by the facilities of the district, which sewer rates, rentals, and other charges, applicable within the limits of a city of the first or second class, shall be subject to the approval, supervision and control of the legislative body of such city as hereinafter provided.

(11) To enter on any lands, waters and premises for the purpose of making surveys, and soundings and examinations.

(12) To approve or revise the plans and designs of all trunk, intercepting, connecting, lateral and outlet sewers, storm water drains, pumping and ventilating stations, disposal and treatment plants and works proposed to be constructed, altered or reconstructed by any other person or corporation, private or public, in the whole county, in order to insure that such proposed construction, alteration or reconstruction shall conform to and be a part of a comprehensive sewer and drainage system for the said county. No sewers, drains, pumping and ventilating stations, or disposal and treatment plants or works shall be constructed, altered or reconstructed without approval by the board of the district. Any such work shall be subject to inspection and supervision of the district.

Section 11. KRS 76.110 is amended to read as follows:

[(1)] The district shall have the power to acquire by purchase [,] *or* gift [or eminent domain proceedings,] the fee or such right, title, interest or easement, in such lands as may be deemed by the district necessary for any of the purposes mentioned in KRS 76.010 to 76.281, whether within or without the district area or within or without a construction subdistrict and any personal property necessary for the purpose of the district. [Such lands or interest therein, or personal property may be so acquired whether or not the same are owned or held for public use by corporations, associations, or other persons having the power of eminent domain, or otherwise held or used for public purposes. But nothing] *Nothing* in this chapter shall be construed to confer upon or recognize in the district any power to acquire by agreement, purchase or gift, [or by eminent domain proceedings,] any fee, right, title, interest or easement in property under the jurisdiction of the department of highways or included within the boundaries of any sanitation district organized under KRS chapter 220, except necessary rights of way for trunk sewers through such sanitation districts. Forthwith upon the acquisition of any such fee, right, title, interest or easement, or personal property, the same shall become dedicated to the uses and purposes of the district.

[(2) The method of condemnation of such property shall be (a) as provided in KRS 416.120, (b) as provided in KRS 76.080 (6), or (c) as provided in KRS 416.230 to 416.310 inclusive or as hereinafter provided.

(3) When a district has filed a proceeding to condemn land or any interest therein or personal property, pursuant to the provisions of KRS 416.230 to 416.310, and the board of such district shall determine that the necessity for procuring possession of the property is urgent, it may pass a resolution, at the time that said condemnation is authorized or at any time thereafter for a declaration of taking, declaring that said lands are to be taken for the use of a metropolitan sewer district. Said declaration of taking shall contain, or have annexed thereto, the following:

(a) A statement of the authority under which and, the public use for which, said lands are taken;

(b) A description of the lands taken sufficient for identification thereof;

(c) A statement of the estate or interest in said lands taken for said public use;

(d) A plat showing the lands taken.

(4) At any time after the report of the commissioners has been made, the district may file said declaration of taking and make a deposit with the clerk of the court of the sum of money stated in the award of the commissioners appointed. Title to said lands in fee simple or such lesser estate as is specified in said declaration or to said personal property shall then vest in such metropolitan sewer district, and the right to just compensation for said land or interest therein or personal property shall vest in the persons entitled thereto. Said compensation shall be ascertained and awarded in said proceeding as otherwise provided in KRS 416.230 to 416.310 inclusive.]

Section 12. KRS 76.325 is amended to read as follows:

The powers of the commission shall be:

(1) To construct, operate and maintain a sewerage and/or drainage system and sewers and drains within the boundaries of the sewer construction district, or to contract with a metropolitan sewer district for such construction, operation and/or maintenance;

(2) To provide for disposition of the sewage and/or drainage, and for treatment of sewage, either through its own facilities or by contract with the metropolitan sewer district;

(3) To clean out, straighten, alter, deepen, fill up or otherwise improve any stream, watercourse receiving sewage, liquid wastes or drainage, located in or out of the district;

(4) To construct, operate and maintain trunk sewers, intercepting sewers, laterals, siphons, pumping stations, sewage treatment and disposal works necessary for the purposes of the district, through its own facilities or by contract with the metropolitan sewer district;

(5) To hold, control, acquire by purchase [,] *or* donation [or condemnation] any real or personal property necessary for location, construction, operation or maintenance of its works and improvements and easements for rights of way;

(6) Upon completion of construction of any integral part of the sewer or drainage system, to contract for the operation and maintenance of its works and improvements or easements for rights of way;

(7) Upon completion of construction of any integral part of the sewer or drainage system, to contract for the operation and maintenance of, and extensions to, such part of the system, with the metropolitan sewer district on a service basis for the users, or, with the approval of the court, to have the territory in such part of the sewer construction district incorporated into the metropolitan sewer district for service as provided to other property within said metropolitan sewer district.

Section 13. KRS 96.175 is amended to read as follows:

Any board operating under the provisions of KRS 96.171 to 96.188 shall have the legal power and capacity to perform any act not repugnant to law and shall have the express power and capacity to do any and all acts or things necessary or convenient for the carrying out of the purposes of KRS 96.171 to 96.188, including, but not by way of limitation, the following express powers:

(1) Acquire property, real and personal, tangible and intangible, necessary or incident to the proper conduct of its business.

(2) Operate, maintain, improve and extend the electric and water plant, and provide electric and water service to any user or consumer within and without the boundaries of any municipality, and charge and collect reasonable rates therefor.

(3) Fix and determine classifications, rates and charges for services; Provided, however, the rates and charges so fixed and determined at all times shall be sufficient to produce revenues sufficient to pay all operating expenses, interest, and bond requirements, sinking fund requirements, adequate depreciation reserves, taxes, or payments in lieu of taxes, and reserves for contemplated extensions and improvements.

(4) Construct, lease, operate and control any and all works, lines, buildings and other facilities across, along or under any street or public highway, and over any lands which are now or may be the property of the commonwealth or of any county or municipality within this commonwealth. The board shall, however, at its own expense, restore any such street or highway to its former condition and state as nearly as may be possible and shall not use the same in a manner as to impair its usefulness or to interfere with or obstruct the maintenance thereof. Before exercising these powers the board shall obtain a permit or consent or approval in writing from the governing authority of the municipality, or the fiscal court, or the department of highways, having appropriate jurisdiction over any and all of such respective streets or public highways.

(5) Accept gifts, grants of property, real or personal, including money, from any person, municipality, or federal agency, and to accept voluntary and uncompensated services; Provided, however, That when engineering services are required by the board no engineer or firm with which he is associated who is engaged in whole or in part in the business of buying or selling any electric or water equipment, machinery, fixtures, materials, supplies, or the sale or purchase of bonds shall be eligible for employment or for any service whatsoever under the provisions of KRS 96.171 to 96.188.

(6) Contract debts and borrow money for the improvement and extension of any electric and water plant or for the refinancing of any existing bonded indebtedness on the property or any portion thereof, issue bonds therefor, provide for the rights of holders of the bonds and to secure the bonds as hereinafter provided, and pledge all or any of the net revenue derived from the electric and water plant to the payment of such debts or repayment of money borrowed.

(7) The title to any property, real or personal, which the board may acquire shall vest in the municipality for the use and benefit of the electric and water system. The board shall have the power to sell or otherwise dispose of any personal property used or useful in the operation of the electric and water system which may be or become obsolete or otherwise determined by the board not to be necessary in the operation of the electric and water system. Any bill of sale or other instrument of conveyance shall be executed by the chairman of the board and attested by the secretary of the board.

(8) Make contracts and execute instruments containing such covenants, terms and conditions as in the discretion of the board may be proper, necessary or advisable for the purpose of obtaining loans from any source, or grants, loans or other financial assistance from any governmental agency; make all other contracts and execute all other instruments as in the discretion of the board may be advisable in or for the furtherance of the operation, maintenance, improvement or extension of any electric and water plant and the furnishing of service; and carry out and perform the covenants, terms, and conditions of all such contracts or instruments, as well as all contracts and instruments in existence and effect at the time of the transfer of the property to the board as herein provided.

(9) Enter on any lands, waters and premises for the purpose of making surveys, soundings and examinations in connection with the operation, maintenance, improvement or extension of any electric and water plant and the furnishing of service.

(10) Do all acts and things necessary or convenient to carry out the powers expressly given in KRS 96.171 to 96.188, except sell, convey or mortgage the real property.

(11) Make any contracts necessary or convenient for the full exercise of the powers herein granted, including, but not limited to, contracts for either the purchase or sale or both the purchase and sale of electric energy or power; and, in connection with any such contract with a governmental agency, the board may stipulate and agree to such covenants, terms, and conditions as it deems appropriate, including, but without limitation, covenants, terms, and conditions with respect to the resale rate, financial and accounting methods and the manner of disposing of the revenues or any part thereof derived from the operation of the plant as herein provided.

(12) Acquire by purchase [or the exercise of eminent domain] all lands, easements, rights of way, either upon or under or above the ground, reasonably necessary or desirable in connection with the operation, maintenance or extension of an electric and water plant.

(13) The board shall have the power to accept the provisions of and conduct its operations under the provisions of the Kentucky Workmen's Compensation Act.

(14) The board shall have the power to establish, create, provide and maintain a pension plan for its employes, and to pay out of operating revenues, as an operating expense, such portion of the cost of the creation and maintenance of such pension plan as may be properly payable by the board.

Section 14. KRS 96.640 is amended to read as follows:

(1) Before any municipality shall have authority to (a) construct or cause to be constructed an electric plant, (b) acquire an electric plant by purchase, or (c) institute condemnation proceedings for acquiring by eminent domain an electric plant, or (d) issue revenue bonds for the construction, purchase, or acquisition of an electric plant, the question shall be submitted to the qualified voters of the municipality as hereinafter in this section provided.

(2) Before any municipality shall be authorized or empowered to purchase or establish and thereafter operate an electric plant, or to issue bonds therefor, the legislative body of such municipality shall pass an ordinance declaring it desirable that the municipality shall purchase or construct and operate a municipal electric plant, and if it is proposed to construct such electric plant, the board shall cause an engineer or engineers duly qualified and licensed under the laws of this commonwealth (a) to prepare the necessary and proper plans and specifications for the construction of the electric plant, (b) select the location therefor, (c) determine the size, type and method of construction thereof, (d) make the necessary estimates of the cost of construction and of the acquisition of the land and rights of way, and (e) a survey of all lands, structures, rights of way, franchises and easements, the acquisition of which is deemed necessary by said engineers and the board for the construction and operation of such municipal electric plant, all of which shall be approved by the board; and, Provided further, That the question of whether or not revenue bonds shall be issued to provide for the payment of the cost thereof shall be submitted to the qualified voters of such municipality at the next regular November election to be held in said municipality. The mayor shall certify such ordinance to the clerk of the county court, who shall, on the ballots provided for use in the general November election in the municipality (if however there is no municipal election a separate ballot shall be provided) in which it is proposed to construct such electric plant and issue revenue bonds for the payment of the cost thereof, have printed thereon the question: "Are you in favor of the city constructing and operating a municipal electric plant in accordance with the plans and specifications adopted by the Electric Plant Board of .... (here insert name of municipality) and the issuance of revenue bonds in the maximum amount of $.... (here insert maximum total face amount of bonds estimated by the board to be necessary to pay the cost of such plant, based upon the estimate hereinabove provided)." And opposite the question he shall print "Yes" and "No," with the proper squares for stamping the cross mark to indicate preference.

(3) The mayor of such municipality shall advertise such election and the object thereof by publication pursuant to KRS chapter 424, and also by printed handbills posted in not less than four (4) conspicuous places in each voting precinct in the municipality and at the courthouse door. All legal voters of such municipality shall be privileged to vote at such election. The city shall have no authority to construct a municipal electric plant, or to issue revenue bonds unless a majority of all the qualified voters voting in said election on this question vote in favor thereof.

(4) Any contract of a municipality for the purchase of an electric plant shall be conditioned upon the approval of the qualified voters of the municipality at an election held at the time and in the manner provided in subsections (2) and (3) of this section, except that the clerk shall have printed on the official ballots for the election the following: "Are you in favor of the City of .... purchasing from .... (insert the name of owner or owners) an electric plant at the price of $.... (herein insert the amount of the agreed purchase price) and the issuance of revenue bonds in the amount of $.... (herein insert total face amount of bonds required to pay the agreed purchase price)." And opposite the question, he shall print "Yes" and "No," with the proper squares for stamping the cross mark to indicate preference.

(5) Before any municipality shall be authorized or empowered to institute condemnation or eminent domain proceedings to acquire an electric plant, the legislative body of such city shall pass an ordinance declaring it desirable that the municipality shall acquire by condemnation an electric plant, and shall describe in the ordinance the property which it deems necessary to be acquired, and there shall be submitted, in the manner provided in subsections (2) and (3) of this section, to the qualified voters of the municipality at the next regular November election, the following question: "Are you in favor of the City of .... (here insert name of city) acquiring an electric plant by the exercise of the power of eminent domain and the issuance of revenue bonds in an amount sufficient to pay the entire damages and costs of such acquisition." Opposite the question shall be printed "Yes" and "No," with the proper squares for stamping the cross mark to indicate preference.

(6) No municipality [or board] shall have authority to purchase, construct, or acquire, or to institute condemnation proceedings for acquiring an electric plant, or to issue revenue bonds or other obligations or evidences of indebtedness for the payment of the costs thereof unless a majority of all the qualified voters voting in said election on the question vote in favor thereof. Elections held pursuant to the provisions of KRS 96.550 to 96.900 shall be governed by the laws of this state relative to elections to the extent that such laws are not inconsistent herewith. *Condemnation shall be in accordance with the procedure set forth in KRS 416.410 to 416.530.*

Section 15. KRS 96A.080 is amended to read as follows:

(1) A transit authority may establish mass transportation within its transit area, but may not inaugurate service in direct competition with any existing certificated carrier.

(2) In addition to the power conferred upon an authority by this chapter, an authority may acquire real or personal property, easements, franchises, bus certificates, or other rights by any lawful means necessary to its operation of any existing mass transit system within its transit area, provided that having acquired an existing transit system it shall not thereafter inaugurate service in direct competition with any other existing certificated carrier.

[(3) An authority may, if unable to contract or agree with the owner or owners thereof, acquire real and personal property, franchises, bus certificates, easements and other rights when necessary in and to the accomplishments of the public purposes of the authority, through exercise of the power of eminent domain; provided, however, that in acquiring any private bus company pursuant to this section, the authority may not do so piecemeal but shall acquire the entire system including that which may be outside the area then included within the authority. An authority shall not condemn any real and personal property, franchises, bus certificates, easements and other rights of a private bus company the majority of whose passengers move between termini without the transit area. Any exercise of such power shall be initiated by resolution of the board of the authority identifying the properties or rights to be acquired, reciting the board's determination that acquisition by such means is necessary, and authorizing initiation of proceedings as required by law; and such resolution of the board of the authority shall not be conclusive of such determination but shall be subject to the approval of the fiscal court or courts of the county or counties in which the property sought to be condemned is located.

(4) Proceedings in the exercise of the power of eminent domain herein vested in an authority shall, except where inconsistent with this chapter, be such as are prescribed for the State Bureau of Highways by KRS 177.082 to 177.089, inclusive, and as the same may be amended and supplemented from time to time. All such proceedings shall be governed by the provisions of the Rules of Civil Procedure except where the provisions of this chapter or of KRS 177.082 to 177.089, inclusive, specifically or by necessary implication provide otherwise. If a privately owned mass transportation system, or other property sought to be acquired by an authority, shall have been acquired or improved in whole or in part at the expense of the authority, the cost and value of such acquisitions and improvements shall be excluded in any proceedings to establish the fair value thereof.]

(3) [(5)] During any period when negotiations for the purchase of a mass transit system are in progress [, and/or during any period when proceedings for acquisition of a mass transportation system through exercise of the power of eminent domain may be pending,] an authority may make reasonable subsidy payments to the owner or owners of such mass transit system if, in the judgment of the board of the authority, such subsidy payments are necessary in order to give reasonable assurance that there will be no substantial reduction of transportation service to the public. Such subsidy payments may be made by an authority from any resources available to it, or from appropriations made or agreed to be made to it by any public body having an interest in the preservation of mass transit service to the public; and if bonds are ultimately issued for the purchase or other acquisition of such mass transit system, the aggregate amount of such subsidy payments may be included as a part of the cost of acquisition and made payable from the proceeds of such bonds. In no event, however, shall any action on the part of a board of an authority in this connection create an indebtedness of the authority beyond its available resources or such appropriations or the proceeds of such bonds, if and when bonds are issued.

Section 16. KRS 97.680 is amended to read as follows:

The commission may acquire, by gift, purchase [,] *or* lease [or condemnation,] any real or personal property situated wholly within the city or county, or any interest, franchise, easement, right or privilege in the city or county, of any buildings, tools, machinery, materials or supplies that may be required for the purpose of furnishing, maintaining or operating the memorial. [The proceedings for condemnation shall be conducted in the name of the commission in the method prescribed by KRS 416.120.] All property acquired by the commission shall be held, used and controlled by it for the purposes named in KRS 97.630 to 97.780.

Section 17. KRS 98.090 is amended to read as follows:

(1) The commission may:

(a) Make such preliminary investigations and do such preliminary work as should, in its judgment, precede the actual construction of the building or improvement.

(b) Determine upon a proper site for the building or improvement. If the city owns a public building, that site, as it exists or as enlarged by the acquisition of adjacent property recommended by the commission, shall be used unless the commission determines that it is unsuitable for the purpose and recommends to the mayor the acquisition of another site. The mayor shall submit the recommendation to the legislative body for approval. The new site shall be adopted only upon the approval of the change by legislative resolution approved by the mayor. In the event the existing building on the old site is to be abandoned, the old site may be sold and the proceeds applied to the purchase of the new site.

(c) Provide accommodations for patients or inmates of the existing public building while the new building is in course of erection and furnishing. The legislative body may, out of its levy for the department having supervision of such buildings, assume the whole or part of the expense of providing such temporary accommodations.

(d) Establish and enforce reasonable rules and regulations for its own government and for the supervision, protection, management and conduct of its work and the payment therefor as it deems expedient.

(e) Purchase, hire or otherwise obtain the use of such lands, buildings, machinery, supplies, materials and working agencies as it needs for its purposes.

(f) Acquire by gift, purchase [,] *or* lease [or condemnation,] any property situated within the city or county where the city is located, or any interest or privilege in the property, required for the building or improvement. [The method of condemnation shall be the same as in KRS 416.120.]

(2) The enumeration of special powers in this section does not restrict the general powers of the commission to carry out the purposes of KRS 98.040 to 98.170.

Section 18. KRS 99.360 is amended to read as follows:

Each agency created for the purpose of KRS 99.330 to 99.510 shall constitute a public body, corporate and politic, exercising public and essential governmental functions, and shall have the following powers in addition to the others granted:

(a) To sue and be sued; to have a seal; to make and execute contracts and other instruments necessary or convenient to the exercise of its powers;

(b) To make, and from time to time amend and repeal bylaws, rules and regulations not inconsistent with KRS 99.330 to 99.510 to carry into effect the powers and purposes thereof;

(c) To select and appoint such officers, agents, counsel and employes, permanent and temporary, as it may require, and determine their qualifications, duties and compensation, subject, however, to the provision of its budget;

(d) Within its area of operation, for purposes of redevelopment within the development area, to purchase, lease, obtain option upon, acquire by gift, grant, bequest [,] *or* devise [or otherwise,] any real or personal property, or any interest therein, together with any improvements thereon; [to acquire by the exercise of the power of eminent domain any real property;] to clear any and all buildings, structures or other improvements from any real property so acquired and to dispose of any personal property resulting therefrom; to sell, lease, exchange, subdivide, transfer, assign, pledge, encumber (by mortgage, deed of trust or otherwise), or otherwise to dispose of any real or personal property or any interest therein at its fair value for uses in accordance with the development plan, irrespective of the cost of acquiring and preparing real property for redevelopment; to insure or provide for the insurance of any real or personal property or operation of the agency against risks or hazards; and pursuant to the provisions of KRS 99.450 to rent, maintain, manage, operate, and repair such real property;

(e) To borrow from and to accept loans and grants from the federal government or any agency thereof, or from any sources, public or private, for the purposes of KRS 99.330 to 99.510, and to pledge such security as may be required; an agency, notwithstanding the provisions of any other law, may include in any contract for financial assistance with the federal government any conditions which the federal government may attach to its financial aid of a redevelopment project, not inconsistent with the purposes of KRS 99.330 to 99.510;

(f) Within its area of operation, to develop as a building site or sites, any real property owned or acquired by it, and in this connection to cause streets and highways to be laid out and graded, and pavements or other road surfacing, sidewalks and curbs, and public utilities of every kind to be constructed and installed, or to close any streets according to the development plan;

(g) Within its area of operation, to prepare from time to time plans for the improvement or rehabilitation of slum and blighted areas; to make, periodically, investigations and surveys pertaining to slum clearance and urban redevelopment;

(h) To invest any funds held in reserves or sinking funds or any funds not required for immediate disbursement, in property or securities in which savings banks may legally invest funds subject to their control; to purchase its bonds at a price not more than the principal amount thereof and accrued interest, all bonds so purchased to be canceled;

(i) To obligate lessees or purchasers of land acquired in a redevelopment project: To use such land for the purpose designated in the development plan; to begin the building of specified improvements within a period of time which the agency fixes as reasonable; and to comply with such other conditions as in the opinion of the agency are necessary to carry out the purposes of KRS 99.330 to 99.510; the agency, by provision in the contract, deed or lease may make any of the purchaser's obligations covenants or conditions running with the land, whose breach shall cause the fee to revert to the agency; and

(j) To exercise all or any part or combination of the powers herein granted.

(2) Nothing contained in this section shall authorize such agency to construct any of the buildings for residential, commercial, industrial or other use contemplated by the development plan.

Section 19. KRS 99.565 is amended to read as follows:

The council of any community, whose agency has received certification of availability of federal funds pursuant to section 101 (c) of the National Housing Act of 1949, as amended may authorize the agency to acquire, by [eminent domain,] purchase, gift, grant [,] *or* devise [or otherwise,] any real property in the development area or urban renewal area without regard to the conditions, restrictions, or provisions set forth in KRS 99.370, or any other section of KRS chapter 99; if it finds by resolution that it is desirable and feasible to obtain federal financial assistance authorized by section 403 of the Housing Act of 1959 in acquiring such real property, and to sell, grant and convey any such real property if by resolution the agency consents to the disposal thereof.

Section 20. KRS 99.650 is amended to read as follows:

(1) Each agency created under the terms of KRS 99.610 to 99.680 shall constitute a public body corporate and politic, exercising public and essential governmental functions, and shall have all of the powers necessary and convenient to carry out and effectuate the purposes and provisions of KRS 99.610 to 99.680 including but without limiting the generality of the foregoing, the following powers in addition to other powers granted herein and by other statutory authority:

(a) To sue and be sued; to have a seal; to make and execute contracts and other instruments necessary or convenient to the exercise of its powers;

(b) To make, and from time to time amend and repeal bylaws, rules and regulations not inconsistent with KRS 99.610 to 99.680, to carry into effect the powers and purposes thereof, subject to approval, amendment or modification by the governing board;

(c) To select and appoint such officers, agents, counsel and employes, permanent and temporary, as it may require, and determine their qualifications, duties and compensation, subject, however, to the provisions of its budget;

(d) Within the jurisdiction of the city in which it is established, and for the purpose of developing a project area or areas, to purchase, lease, obtain option upon, acquire by gift, grant, bequest, devise or otherwise, any real or personal property or any interest therein, together with any improvements thereon; to clear any and all buildings, structures or other improvements from any real property so acquired; to renovate or rehabilitate any improvements to such real property so acquired and to dispose of any personal property resulting therefrom; to develop and construct residential housing for persons and families of lower income; to sell, lease, exchange, subdivide, transfer, assign, pledge, encumber by mortgage, deed of trust or otherwise, or otherwise to dispose of any real or personal property or any interest therein at its fair value for uses in accordance with the development plan, irrespective of the cost of acquiring and preparing said property; to insure or provide for the insurance of any real or personal property or operation of the agency against risks or hazards; and pursuant to the provisions of KRS 99.610 to 99.680; to rent, maintain, manage, operate, and repair such real property and any improvements thereto;

(e) Within the jurisdiction of the city in which it is established, and for the purpose of developing a project area or areas: to make or participate in the making of construction, land development, mortgage and rehabilitiation loans and to purchase or participate in the purchase of construction, land development, mortgage and rehabilitation loans for residential housing projects, provided, however, that such loans shall be made only upon the determination by the agency that such loans are not otherwise available, wholly or in part, from private lender upon reasonably equivalent terms and conditions; to insure or reinsure construction land development, mortgage and rehabilitation loans on residential housing projects provided, however, that any such insurance or reinsurance shall be made only upon the determination by the agency that such insurance or reinsurance is not otherwise available wholly or in part from private insurers upon reasonably equivalent terms and conditions; to make grants from appropriated funds, and any other funds from any source available to the agency, to builders, developers, and owners of residential housing for the development, construction, rehabilitation or maintenance of residential housing and such facilities related thereto as the agency shall deem important for a proper living environment, all on such terms and conditions as may be deemed appropriate by the agency; to sell, at public or private sale, all or any part of any mortgage or other instrument or document securing a construction land development, or rehabilitation loan for residential housing projects of any type, appropriate to the purpose of the agency; to consent, whenever it deems it necessary or desirable in the fulfillment of its corporate purposes, to the modification of the rate of interest, time of payment of any installment of principal or interest, or any other terms, of any mortgage loan, mortgage loan commitment, construction or land development loan, rehabilitation loan, contract or agreement of any kind relating to residential housing projects to which the agency is a party;

(f) Within a project area, to cause streets and highways to be laid out and graded, and pavements or other road surfacing, sidewalks, curbs, gutters, storm sewers and public utilities of every kind to be improved, constructed and installed and to close any streets according to the development plan;

(g) To invest any funds held in reserves or sinking funds or any funds not required for immediate disbursement, in property or securities in which banks or insurance companies may legally invest funds subject to their control; to purchase its bonds at a price not more than the principal amount thereof and accrued interest, all bonds so purchased to be cancelled;

(h) To obligate lessees or purchasers of land acquired in a project: (1) to use such land for the purpose designated in the development plan; (2) to begin the building of specified improvements or renovation of existing improvement within a period of time which the agency fixes as reasonable; and (3) to comply with such other conditions as in the opinion of the agency are necessary to carry out the purposes of KRS 99.610 to 99.680; the agency, by provision in the contract, deed or lease may make any of the purchaser's obligations, covenants or conditions running with the land, whose breach shall cause the fee to revert to the agency;

(i) To contract as, and to accept the obligations of, an owner of benefited property under the terms of KRS 107.010 to 107.220, inclusive;

(j) To exercise all powers granted to governmental agencies under proposed legislation which deals with the use of "tax increment" revenues and financing of public purpose projects through the use thereof; and

(k) To exercise all powers granted to governmental agencies by KRS 58.010 to 58.140, inclusive *except the power of eminent domain*; and

(1) To exercise all or any part or combination of the powers herein granted.

(2) Nothing contained in this section shall authorize such agency to construct any of the buildings for residential, commercial, industrial or other use contemplated by the development plan, except as to the development and construction of residential housing for persons and families of lower income and except insofar as any industrial building may be authorized to be constructed by a lessee, on behalf of the agency, under the provisions of KRS 103.200 to 103.285, inclusive.

(1) To make periodic grants to reduce principal and interest payments on mortgages or rentals payable by persons and families of low income;

(m) To rehabilitate, acquire, establish and operate, lease and sublease, residential housing for persons and families of lower income and to enter into agreements or other transactions with any federal, state or local government agency for the purpose of providing adequate living quarters for such persons and families and to contract to assume the rights, powers, duties and obligations of any local housing authority or similar agency of the federal, state, city or urban county governments.

(n) To borrow from and to accept loans and grants from the federal, state, city or urban county governments or any agency thereof, or from any sources, public or private, for the purposes of KRS 99.610 to 99.680, and to pledge such security as may be required, an agency, notwithstanding the provisions of any other law, may include in any contract for financial assistance with the federal, state, city or urban county government any conditions which the federal, state, city or urban county government may attach to its financial aid not inconsistent with the purposes of KRS 99.610 to 99.680.

Section 21. KRS 106.010 is amended to read as follows:

Any water district created pursuant to KRS chapter 74 or any city of the second, third, fourth, fifth or sixth class may, by purchase [or by condemnation,] acquire, establish, erect, maintain and operate waterworks, together with extensions and necessary appurtenances thereto, and including both real or personal property within or without the corporate limits of the said water district or city, for the purpose of supplying the water district or the city and its inhabitants thereof with water.

Section 22. KRS 106.220 is amended to read as follows:

(1) Any [water district or] municipality referred to herein shall have the right to acquire by exercise of the power of eminent domain all lands, easements, rights of way, either upon or under or above the ground, any existing water plant or water distribution system and appurtenances thereto, or any part of same, within the boundaries or corporate limits of such [water district or] city, and any and all real estate, franchises or personal property reasonably necessary or desirable in connection with the construction or operation or maintenance of water plants or water distribution systems, or improvements or extensions thereto, and the right to acquire same is hereby declared to be a superior and paramount right, superior and paramount to any other public use, and further provided that as in the eminent domain proceedings to acquire from any public or private utility a water plant or water distribution system the property condemned must include all the property owned by the utility within the corporate limits of the said water district or the city which is used or useful in connection with the business of providing water service.

(2) The condemnation or eminent domain proceedings shall be brought in the name of the [water district or in the name of the] municipality, and title to the property so condemned shall be taken in the name of the [water district or] municipality [as the case may be].

Section 23. KRS 106.230 is amended to read as follows:

(1) When the board of any [water district or] municipality authorized to acquire, construct, own or operate a waterworks or water distribution system and appurtenances thereto, under the provisions of this chapter shall be unable to contract with the owner of any land, easements, rights of way, waterworks, water distribution systems and appurtenances thereto, or any facilities or property needed by such board for its use for the purposes thereof and desires to exercise the right of eminent domain, the board shall file in the office of the clerk of the circuit court a particular description of the property sought to be condemned, and may apply to the circuit court to appoint commissioners to assess the damages the owner or owners thereof may be entitled to receive, and thereupon said court shall appoint three (3) impartial housekeepers of the county who are landowners, and who shall be sworn to faithfully and impartially discharge their duties under this law.

(2) It shall be the duty of said commissioners to ascertain and determine the value of the property taken, the value of real estate, tangible personal property, intangible property and franchises if any such value is found to exist shall be determined and stated separately in their report; and they shall also award damages, if any, resulting to the remainder of the waterworks, water distribution system and appurtenances thereto of the owner, considering the purposes for which the property is taken, and the amount of said damages, if any, shall be stated separately in their report. They shall return a report, in writing, to the office of the clerk of said court, stating their award, and shall describe in their report the property condemned, give the name or names of the owners, and whether nonresidents of the state, infants, or incompetent persons.

(3) Upon the application of the [said water district commissioners of the] legislative body of the municipality herein referred to as the board, and upon filing such affidavits as may be necessary, the clerk of said court shall issue process against the owner or owners to show cause why the said report should not be confirmed, and shall make such orders as to nonresidents and persons under disability as are required by the Rules of Civil Procedure in actions against them in the circuit court.

(4) At the first regular term of the circuit court, after the owners shall have been summoned the length of time prescribed by the Rules of Civil Procedure before an answer is required in circuit court, it shall be the duty of the court to examine said report, and if it shall appear to be in conformity to this law, and to the extent that no exceptions have been filed thereto by either party, it shall confirm said report as against the owners not excepting.

Section 24. KRS 108.010 is amended to read as follows:

To serve the public interest and provide a means of meeting problems of local government in urban areas, there may be established and operated under the provisions of this chapter an urban services district. Such a district shall be a public body corporate and political subdivision, with power to adopt and use a corporate seal, sue and be sued, contract and be contracted with, and in other ways to function as a municipal corporation or a natural person within the purview of this chapter. In addition to the general grants of power of this chapter, such a district shall have the specific authority provided for in KRS chapters 58, 66, 79 and 107. [The district shall have the power of eminent domain and shall follow the procedures outlined in KRS 416.120.]

Section 25. KRS 146.280 is amended to read as follows:

(1) Within the exterior boundaries of a designated stream area, as established and authorized by the Kentucky General Assembly, the Commissioner of the department for natural resources and environmental protection is authorized and empowered to acquire by purchase, [exercise of the rights of eminent domain,] grant, gift, devise or otherwise, the fee simple title to, a scenic easement on, or any acceptable lesser interest in any lands, and by lease or conveyance, contract for the right to use and occupy any lands. Where property

within such boundaries is owned by the federal government, the commissioner can enter into agreements with the landowning agency concerning use of the property consistent with the objectives of KRS 146.200 to 146.350. Nothing in KRS 146.200 to 146.350 shall be construed to deprive a landowner of his property or any interest or right therein without just compensation.

[(2) The commissioner is authorized to exercise the right of eminent domain only where it is absolutely necessary in order to acquire access points or to maintain the character of the area within the meaning of KRS 146.200 to 146.350. The commissioner shall not obtain an easement if the landowner objects thereto, but in such case must obtain fee title, with full compensation to the landowner.]

(2) [(3)] The Commissioner of the department for natural resources and environmental protection may not exercise authority to acquire lands or interests in lands located within any incorporated city, village, or county when such entities have in force a duly adopted, valid ordinance or plan for the management, zoning and protection of such lands in accordance with the provisions of KRS 146.200 to 146.350.

Section 26. KRS 150.620 is amended to read as follows:

For the purpose of encouraging and developing public interest in wildlife and carrying out the policy of the commonwealth of Kentucky under chapter 150 of the Kentucky Revised Statutes, the department of fish and wildlife resources commission, as a state agency, and based upon investigations and recommendations of the commission, is hereby authorized to acquire lands including any improvements thereon by purchase [, condemnation] or lease from the state property and buildings commission or from others, and partly by any or all of such means, and to thereafter establish, improve, maintain and operate public shooting and fishing grounds and similar or related recreational facilities thereon, and for the purpose of paying the cost of any such purchase [or condemnation] and the maintenance and operation expenses may use and apply any funds available for that purpose. The payments under each such lease shall be deemed an administrative and operating expense of the department, and such payments may be secured by a pledge of and made from all or any part of the funds coming under the control of the department including the game and fish fund, as may be provided and specified in the lease. The commissioner, with the approval of the commission may sublease any lands and improvements thereon acquired under the provisions of this chapter for agricultural and for any purpose deemed by the commission to be incidental or beneficial to the maintenance and operation of the balance of said lands and improvements for the purpose herein stated. The commission may impose and enforce special regulations in the maintenance and operation of the facilities acquired under the provisions of this section and charge such rates as may be deemed fair and reasonable for the use of and participation of the public in the facilities and lease payments aforesaid may be made a first charge on the income and revenues from the maintenance and operation of the facilities and from the sublease of any portion thereof, to be supplemented with any other funds available for that purpose.

Section 27. KRS 152.340 is amended to read as follows:

(1) Whenever in the estimation of the secretary the purposes of KRS 152.310 to 152.390 would be furthered through the use of patented processes or equipment, the secretary is authorized to enter into such agreements as he deems necessary for the acquisition or use of such patents on reasonable terms and conditions.

[(2) The secretary is authorized to acquire by condemnation, purchase, lease, or otherwise such real property as may be necessary to enable him to carry out his duties under KRS 152.310 to 152.390.]

(2) [(3)] The secretary may accept funds that are donated or otherwise made available to him, and spend them in the program established by KRS 152.310 to 152.390.

Section 28. KRS 152.590 is amended to read as follows:

The commission shall have the following general powers, in addition to specific powers enumerated in KRS 152.510 to 152.700:

(1) To acquire by purchase, [exercise of the right of eminent domain,] grant, gift, devise or otherwise, the fee simple title to or any acceptable lesser interest in any lands, and by lease or other contract the right to use and occupy any lands, selected in the discretion of the commission as constituting necessary, desirable or acceptable sites for projects of the commission, including any and all lands adjacent to a project site as in the discretion of the commission may be necessary or suitable for satellite projects or restricted areas; but in all instances lands which are to be designated as radioactive waste material sites shall be acquired in fee simple absolute and dedicated in perpetuity to such purpose;

(2) To convey to private enterprise, or to lease to private enterprise for such term as in the discretion of the commission may be in the public interest, any lands so acquired, either for a fair and reasonable consideration or solely or partly as an inducement to the establishment or location in the commonwealth of any scientific or technological facility, project, satellite project or nuclear storage area; but subject to such restraints as may be deemed proper to bring about a reversion of title or termination of any lease in the event the grantee or lessee, as the case may be, shall cease to use the premises or facilities in the conduct of

business or activities consistent with the purposes of KRS 152.510 to 152.700; Provided, however, radioactive waste material sites may be leased but may not otherwise be disposed of except to the commonwealth, or to the United States;

(3) To construct, reconstruct, maintain, repair, operate and regulate projects at such locations within the commonwealth as may be determined by the commission;

(4) To fix by contract, or to establish and revise from time to time and charge and collect revenues, rentals, rates and charges for use of the services and facilities of projects;

(5) To combine for financing purposes any two or more projects;

(6) To establish and enforce rules and regulations for the use of any project;

(7) Without reference to KRS chapter 56, to acquire and hold in the name of the commission real and personal property in the exercise of its powers and the performance of its functions and duties under KRS 152.510 to 152.700, and to dispose of the same with due regard for public health and safety, except in the case of radioactive waste material sites, which may be disposed of only to the commonwealth itself, or to the United States, except as provided in subsection (2);

(8) To designate the locations and establish, limit and control such points of ingress to and egress from each project as the commission may determine to be necessary or desirable to insure the proper operation and maintenance of such project, and to prohibit entrance to such project from any point or points not so designated;

(9) To make and enter into such contracts and agreements with governmental agencies and private enterprise as may be necessary or incidental to the performance of its duties and the execution of its powers under KRS 152.510 to 152.700;

(10) To employ scientists, consulting engineers, health officers, attorneys, accountants, construction and financial experts, superintendents, managers and such other employes and agents as may be necessary in the judgment of the commission, and to fix their compensation;

(11) To receive and accept from any governmental agency, or from private enterprise, appropriations, grants or contributions in money, property, labor or other things of value, to be held, used and applied for or in aid of any project;

(12) To expend any funds provided under the authority of KRS 152.510 to 152.700:

(a) to be used as grants to any governmental agency or private enterprise for scientific or technological education, training, research and development, or related projects, and for investigation of potential applications thereof, either with or without federal funds;

(b) to provide scholarships and graduate fellowships in the nuclear, mathematical, physical, medical, biological, engineering and other sciences, either with or without federal funds; and

(c) to publicize the facilities and services of a project or projects to governmental agencies and private enterprise;

(13) To maintain a continuing review and study of policies and programs of all governmental agencies and private enterprise in science and technology and related fields, and to enlist the cooperation of state departments, commissions, agencies and boards in carrying out this function, serving all of said units as a coordinating body to obtain maximum utilization of science and technology in the commonwealth; and

(14) To do all acts and things necessary or convenient to carry out the powers expressly granted in KRS 152.510 to 152.700.

Section 29. KRS 152.670 is amended to read as follows:

(1) The commission is hereby authorized and empowered to acquire by purchase, whenever it shall deem such purchase expedient, such lands, structures, property, rights, rights of way, franchises, easements and other interests in lands, including lands lying under water and riparian rights, which are located within the commonwealth, as it may deem necessary or convenient for the construction and operation of any project, upon such terms and at such prices as may be considered by it to be reasonable and can be agreed upon between it and the owner thereof, and to take title thereto in the name of the commission.

[(2) Whenever a reasonable price cannot be agreed upon, or whenever the owner is legally incapacitated or is absent, unknown or unable to convey valid title, the commission is hereby authorized and empowered to acquire by condemnation or by the exercise of the power of eminent domain any lands, property, rights of way, franchise, easements and other property, including public lands, parks, playgrounds, reservations, highways or parkways, or parts thereof or rights therein, of any person, copartnership, association, railroad, public service, public utility or other corporation, or municipality or political subdivision, deemed necessary or convenient for the construction or the efficient operation of any project or necessary in the restoration of public or private property damaged or destroyed. Any such proceedings shall be conducted, and the compensation to be paid shall be ascertained and paid, in the manner provided by the constitution and laws of the commonwealth then applicable which relate to condemnation or to the exercise of the power of eminent domain. Title to any property acquired by the commission shall be taken in the name of the commission. In any condemnation proceedings the court having jurisdiction of the suit, action or proceedings may make such orders as may be just to the commission and to the owners of the property to be condemned and may require an undertaking or other security to secure such owners against any loss or damage by reason of the failure of the commission to accept and pay for the property, but neither such undertaking or security nor any act or obligation of the commission shall impose any liability upon the commonwealth except as may be paid from the funds provided under KRS 152.510 to 152.700.

(3) If the owner, lessee or occupier of any property to be condemned shall refuse to remove his personal property therefrom or give up his possession thereof, the commission may proceed to obtain possession in any manner now or hereafter provided by law.]

(2) [(4)] The acquisition of any property by the commission under this section shall be in accordance with the provisions of KRS 45.360.

Section 30. KRS 164.260 is amended to read as follows:

The board of trustees may acquire additional lands or other property or material for the purpose of expanding its plant and extending its usefulness. When unable to contract with the owner of land or other property or material necessary for the purposes of the university, it may *request the Executive Department for Finance and Administration to* acquire the same by condemnation proceedings in the manner provided in KRS 416.010 to 416.080. *The Executive Department for Finance and Administration shall initiate condemnation proceedings only on recommendation of the Council on Public Higher Education.*

Section 31. KRS 164.410 is amended to read as follows:

Each board of regents may, on such terms as it regards best for the university or college, purchase or lease land for the purpose of securing the erection of buildings, and may receive by any legal mode of conveyance, purchase and hold property of any description that the board deems necessary for the purposes of the school, and may build and construct improvements for such purposes and hold or sell the same. If a board of regents is unable to agree with the owner of such real estate as to its value, or to its purchase, it may *request the Executive Department for Finance and Administration* [proceed in its own name] to condemn such real estate in the manner provided in KRS 416.010 to 416.080. Real estate acquired by purchase or condemnation shall be paid for out of money appropriated to the university or college. Each board of regents may, when it regards it best for the school, sell and convey any real estate, buildings or equipment owned by it, but the proceeds arising from the sale must be reinvested in other real estate, buildings and equipment for the use of the university or college. *The Executive Department for Finance and Administration shall initiate condemnation proceedings only on recommendation of the Council on Public Higher Education.*

Section 32. KRS 165.070 is amended to read as follows:

The board of trustees of a municipal university in a city of the first class may acquire, by purchase or gift, lands and improvements for the purpose of expanding the plant and extending the usefulness of the university [, and when unable to agree with the owner of land and improvements necessary for the purposes of the university may proceed to condemn the land and improvements. The condemnation proceedings shall be conducted in the manner provided in KRS 416.120].

Section 33. KRS 165.195 is amended to read as follows:

The board of trustees of a municipal college in a city of the second class may acquire, by purchase or gift, lands and improvements for the purpose of expanding the plant and extending the usefulness of the college [, and when unable to agree with the owner of land and improvements necessary for the purposes of the college may proceed to condemn the land and improvements. The condemnation proceedings shall be conducted in the manner provided in KRS 416.230 to 416.310].

Section 34. KRS 166.100 is amended to read as follows:

The state board of education may purchase, hold and sell real and personal property in the name of the commonwealth for the use and benefit of the West Kentucky Vocational School and may *request the Executive Department for Finance and Administraton to* condemn real estate in the manner provided by KRS 416.010 to 416.080. The board may construct improvements and do all things it deems necessary in carrying out the purposes for which the school is maintained. Revenue accruing by reason of the sale or conveyance of any real estate or building owned by it shall be re-invested in other real estate and buildings for use of the school. All appropriations, grants, bequests or donations for a specified use shall be applied to that use and no other. *The Executive Department for Finance and Administration shall initiate condemnation proceedings only on recommendaton of the Council on Public Higher Education.*

Section 35. KRS 168.100 is amended to read as follows:

The authority shall have no power of taxation, nor is it vested with the police power of the commonwealth [, except insofar as the exercise of the power of eminent domain may be deemed a part thereof]

. Otherwise, in general terms, it shall have and is hereby given all such constitutional powers as are necessary to its accomplishment of the purpose and implementation of the public policy set forth in KRS 168.010. Without limiting the generality of the foregoing, but only for assurance to parties from time to time transacting business with the authority, and who may demand and be entitled to assurance, the following specific powers are hereby vested in the authority:

(1) To receive and use in the furtherance of its lawful objectives such state funds as may be appropriated or allotted to it from time to time, any funds received for services rendered under contract or from the sale of property owned by it, and contributions, matching funds, gifts, bequests and devises from any source, whether state or federal, and whether public or private; unless the same be tendered subject to one or more conditions which are inconsistent with KRS 168.010 to 168.100, or otherwise unlawful;

(2) To make contracts and agreements whereunder the authority may undertake to provide educational television facilities and related functions and facilities to or for any public body of the state or federal government in furtherance of educational television or in aid of any other public function; Provided, however, it shall be an express provision of every such contract that the authority will not undertake to transmit or relay, and will not permit any other party to transmit or relay, in the use of the authority's television facilities, any subversive matter, any political propaganda, or any image or message in the interests of any political party or candidate for public office; or be used by, or in aid of, any church, sectarian or denominational school; but this proviso is not intended and shall not be construed to be a limitation upon dissemination by the authority of legitimate objective instructional material which is properly related to the study of history or of current events, or which is no more than factually informative, of current issues of government or of various political ideologies;

(3) To produce, prepare, transmit and relay, either from life or by recording on tape or films, educational television programs and related services not inconsistent with the curricula prescribed or approved for the public schools of the commonwealth by the department or the board;

(4) To purchase or lease from others, or to contract with others for the use of, or the right to transmit or relay similar educational television programs and related services, whenever in the opinion of the authority the same are suitable and cannot be produced as effectively or economically through the use of its own facilities;

(5) To purchase, lease or otherwise acquire, and to operate, television and related facilities deemed by the authority to be necessary in the furtherance of its lawful objectives, *except that the authority shall not acquire any property through the exercise of the power of eminent domain*; [and in this connection to acquire property by the exercise of the power of eminent domain, in the manner authorized for the highway department by KRS 177.081 to 177.089, whenever the same cannot be purchased, leased, or otherwise acquired at a reasonable price after reasonable negotiations with the owner or owners. In all such matters, the authority shall be subject to the provisions of KRS chapters 45 and 56;]

(6) To prescribe standards for receiving instruments which are purchased in the future for use in the public schools, in order that reception of educational television programs and related services may be acceptable and in conformity with the manner of transmission thereof; and to disseminate such standards together with technical information with regard to installations and use of receiving instruments to all of the public school districts, or to such as may request the same;

(7) In its discretion and within the limitation of availability of funds from any sources, to

(a) Establish a program of matching funds as an inducement to public school districts to purchase and install proper facilities for receiving and utilizing educational television programs and related services, especially in situations where by reason of topographical difficulties of reception, special antennas or other equipment may be required, and/or

(b) If so requested by the boards of education of a sufficient number of public school districts, to purchase through the department of finance, subject to the provisions of KRS chapter 45, receiving instruments on their behalf on a wholesale basis for the purposes of economy, any such purchases to be on a public competitive basis after due advertisement according to law, but restricted to such receiving instruments as meet the standards prescribed by the authority.

Section 36. KRS 175.590 is amended to read as follows:

[(1)] The authority is hereby authorized and empowered to acquire by purchase, whenever it shall deem such purchase expedient, solely from funds provided pursuant to this chapter, such lands, structures, property, rights, rights of way, franchises, easements and other interests in lands, including lands lying under water and riparian rights, which are located within the commonwealth, as it may deem necessary or convenient for the construction and operation of any project, upon such terms and at such prices as may be considered by it to be reasonable and can be agreed upon between it and the owner thereof, and to take title thereto in the name of the authority.

[(2) Whenever a reasonable price cannot be agreed upon, or whenever the owner is legally incapacitated or is absent, unknown or unable to convey valid title, the authority is hereby authorized and empowered to acquire by condemnation or by the exercise of the power of eminent domain any lands, property, rights, rights of way, franchises, easements and other property, including public lands, parks, playgrounds, reservations, highways or parkways, or parts thereof or rights therein, of any person, copartnership, association, railroad, public service, public utility or other corporation, or municipality or political subdivision, deemed necessary or convenient for the construction or the efficient operation of any project or necessary in the restoration of public or private property damaged or destroyed. Any such proceedings shall be conducted, and the compensation to be paid shall be ascertained and paid, in the manner provided by the constitution and laws of the commonwealth then applicable which relate to condemnation or to the exercise of the power of eminent domain by the department. Title to any property acquired by the authority shall be taken in the name of the authority. In any condemnation proceedings the court having jurisdiction of the suit, action or proceeding may make such orders as may be just to the authority and to the owners of the property to be condemned and may require an undertaking or other security to secure such owners against any loss or damage by reason of the failure of the authority to accept and pay for the property, but neither such undertaking or security nor any act or obligation of the authority shall impose any liability upon the commonwealth except as may be paid from the funds provided under this chapter.

(3) If the owner, lessee or occupier of any property to be condemned shall refuse to remove his personal property therefrom or give up his possession thereof, the authority may proceed to obtain possession in any manner now or hereafter provided by law.

(4) With respect to any railroad property or right of way upon which railroad tracks are located, any powers of condemnation or of eminent domain may be exercised to acquire only an easement interest therein which shall be located either sufficiently far above or sufficiently far below the grade of any railroad track or tracks upon such railroad property so that neither the proposed project nor any part thereof, including any bridges, abutments, columns, supporting structures and appurtenances, nor any traffic upon it, shall interfere in any manner with the use, operation or maintenance of the trains, tracks, works or appurtenances or other property of the railroad nor endanger the movement of the trains or traffic upon the tracks of the railroad. Prior to the institution of condemnation proceedings for such easement over or under such railroad property or right of way, plans and specifications of the proposed project showing compliance with the above mentioned above or below grade requirements and showing sufficient and safe plans and specifications of such overhead or undergrade structure and appurtenances shall be submitted to the railroad for examination and approval. If the railroad fails or refuses within thirty (30) days to approve the plans and specifications so submitted, the matter shall be submitted to the public service commission of Kentucky whose decision arrived at after due consideration in accordance with its usual procedure, shall be final as to the sufficiency and safety of such plans and specifications and as to such elevations or distances above or below the tracks. Said overhead or undergrade structure and appurtenances shall be constructed only in accordance with such plans and specifications and in accordance with such elevations or distances above or below the tracks so approved by the railroad or the public service commission as the case may be. A copy of the plans and specifications approved by the railroad or the public service commission shall be filed as an exhibit with the petition for condemnation.]

Section 37. KRS 175A.180 is amended to read as follows:

[(1)] The authority is hereby authorized and empowered to acquire by purchase, whenever it shall deem such purchase expedient, solely from funds provided pursuant to this chapter, such lands, structures, property, rights, rights of way, franchises, easements and other interests in lands, including lands lying under water and riparian rights, which are located within the county or counties participating in the authority, as it may deem necessary or convenient for the construction and operation of any project, upon such terms and at such prices as may be agreed upon between it and the owner thereof, and to take title thereto in the name of the authority.

[(2) Whenever a reasonable price cannot be agreed upon, or whenever the owner is legally incapacitated or is absent, unknown or unable to convey valid title, the authority is hereby authorized and empowered to acquire by condemnation or by the exercise of the power of eminent domain any lands, property, rights, rights of way, franchises, easements and other property, including public lands, parks, playgrounds, reservations, highways or parkways, or parts thereof or rights therein, of any person, copartnership, association, railroad, public service, public utility or other corporation, or municipality or political subdivision, deemed necessary or convenient for the construction or the efficient operation of any project or necessary in the restoration of public or private property damaged or destroyed. Any such proceedings shall be conducted, and the compensation to be paid shall be ascertained and paid, in the manner provided by the constitution and laws of the commonwealth then applicable which relate to condemnation or to the exercise of the power of eminent domain by the department. Title to any property acquired by the authority shall be taken in the name of the authority. In any condemnation proceedings the court having jurisdiction of the suit, action or proceeding may make such orders as may be just to the authority and to the owners of the property to be condemned and may require an undertaking or other security to secure such owners against any loss or damage by reason of the failure of the authority to accept and pay for the property, but neither such undertaking or security nor any act or obligation of the authority shall impose any liability upon the commonwealth except as may be paid from the funds provided under this chapter.

(3) If the owner, lessee or occupier of any property to be condemned shall refuse to remove his personal property therefrom or give up his possession thereof, the authority may proceed to obtain possession in any manner now or hereafter provided by law.

(4) With respect to any railroad property or right of way upon which railroad tracks are located, any powers of condemnation or of eminent domain may be exercised to acquire only an easement interest therein which shall be located either sufficiently far above or sufficiently far below the grade of any railroad track or tracks upon such railroad property so that neither the proposed project nor any part thereof, including any bridges, abutments, columns, supporting structures and appurtenances, nor any traffic upon it, shall interfere in any manner with the use, operation or maintenance of the trains, tracks, works or appurtenances or other property of the railroad nor endanger the movement of the trains or traffic upon the tracks of the railroad. Prior to the institution of condemnation proceedings for such easement over or under such railroad property or right of way, plans and specifications of the proposed project showing compliance with the above-mentioned above or below grade requirements and showing sufficient and safe plans and specifications of such overhead or undergrade structure and appurtenances shall be submitted to the railroad for examination and approval. If the railroad fails or refuses within thirty (30) days to approve the plans and specifications so submitted, the matter shall be submitted to the public service commission of Kentucky whose decision arrived at after due consideration in accordance with its usual procedure, shall be final as to the sufficiency and safety of such plans and specifications and as to such elevations or distances above or below the tracks. Said overhead or undergrade structure and appurtenances shall be constructed only in accordance with such plans and specifications and in accordance with such elevations or distances above or below the tracks so approved by the railroad or the public service commission as the case may be. A copy of the plans and specifications approved by the railroad or the public service commission shall be filed as an exhibit with the petition for condemnation.]

Section 38. KRS 181.853 is amended to read as follows:

(1) The commission is hereby authorized and empowered to acquire by purchase, whenever it shall deem such purchase expedient, solely from funds provided under the authority of KRS 181.850 to 181.869, within or without the commonwealth, such lands, structures, property, rights, rights of way, franchises, easements and other interests in lands, including lands lying under water and riparian rights, as it may deem necessary or convenient for the construction or operation of any bridge, upon such terms and at such prices as may be considered by it to be reasonable and can be agreed upon between it and the owner thereof, and to take title thereto in the name of the city for the use and benefit of the commission.

[(2) Whenever a reasonable price cannot be agreed upon, or whenever the owner is legally incapacitated or is absent, unknown or unable to convey valid title, the commission is hereby authorized and empowered to acquire by condemnation or by the exercise of the power of eminent domain any lands, property, rights, rights of way, franchises, easements and other property, including public lands, parks, playgrounds, reservations, highways, or parkways or parts thereof or rights therein, of any person, co-partnership, association, railroad, public service, public utility or other corporation, or municipality or political subdivision deemed necessary or convenient for the construction or the efficient operation of any bridge or necessary in the restoration of public or private property damaged or destroyed. Any such proceedings shall be conducted in the name of the commission, and the compensation to be paid shall be ascertained and paid, in the manner provided by the constitution and laws of the commonwealth then applicable which relate to condemnation or to the exercise of the power of eminent domain by cities of the first class. Title to any property acquired by the commission shall be taken in the name of the city for the use and benefit of the commission. In any condemnation proceedings the court having jurisdiction of the suit, action or proceeding may make such orders as may be just to the commission and to the owners of the property to be condemned and may require an undertaking or other security to secure such owners against any loss or damage by reason of the failure of the commission to accept and pay for the property, but neither such undertaking or security nor any act or obligation of the commission shall impose any liability upon the city or commission except as may be paid from the funds provided under the authority of KRS 181.850 to 181.869.

(3) If the owner, lessee or occupier of any property to be condemned shall refuse to remove his personal property therefrom or give up possession thereof, the commission may proceed to obtain possession in any manner now or hereafter provided by law.

(4) With respect to any railroad property or right of way upon which railroad tracks are located, any powers of condemnation or of eminent domain may be exercised to acquire only an easement interest therein which shall be located either sufficiently far above or sufficiently far below the grade of any railroad track or tracks upon such railroad property so that neither the proposed bridge nor any part thereof, including abutments, columns, supporting structures and appurtenances, nor any traffic upon it shall interfere in any

manner with the use, operation or maintenance of the trains, tracks, works or appurtenances or other property of the railroad nor endanger the movement of the trains or traffic upon the tracks of the railroad. Prior to the institution of condemnation proceedings for such easement over or under such railroad property or rights of way, plans and specifications of the proposed bridge showing compliance with the above-mentioned above or below grade requirements and showing sufficient and safe plans and specifications of such overhead or undergrade structure and appurtenances shall be submitted to the railroad for examination and approval. If the railroad fails or refuses within thirty (30) days to approve the plans and specifications so submitted, the matter shall be submitted to the department of works of the city whose decision, arrived at after due consideration and with an opportunity to the railroad to be heard, shall be final as to the sufficiency and safety of such plans and specifications and as to such elevations or distances above or below the tracks. Said overhead or undergrade structure and appurtenances shall be constructed only in accordance with such plans and specifications and in accordance with such elevations or distances above or below the tracks so approved by the railroad or the department of works of said city as the case may be. A copy of the plans and specifications approved by the railroad or the department of works of said city shall be filed as an exhibit with the petition for condemnation.]

(2) [(5)] The commonwealth hereby consents to the use of all lands owned by it, including lands lying under water, which are deemed by the commission to be necessary for the construction or operation of any bridge.

Section 39. KRS 183.120 is amended to read as follows:

(1) The department may acquire or dispose by contract, purchase, lease, *or* donation [, condemnation or otherwise,] airports, buildings, runways, grounds and other facilities suitable for airport purposes and the proper safeguards to flying where such acquisition or disposal shall be in the public interest.

(2) The department may make additions and improvements to such airports, or facilities and either alone or with the cooperation of others provide personnel, heat, light, water, fuel, telephone service, drainage, runways, fueling facilities, radio and navigation facilities, and other costs of operation and maintenance, including insurance, and may bear the expense of removal or change of obstructions that menace air travel.

(3) The department may enter into contracts of lease for land or facilities to which title is vested in the commonwealth with any city, or cities, county, or counties, governmental unit, political subdivision, airboard or person for the furtherance of the purposes of this chapter. All rents or revenues derived from such contracts of lease shall become the property of the department to be expended by it in carrying out the purposes of this chapter.

(4) The department may give such advice and assistance, including financial aid, engineering and technical assistance within the limits of its resources as it deems advisable, to enable any governmental unit or board to acquire, construct, expand, maintain and operate airports or otherwise assist in the development of aeronautics within their limits. [Such aid may include the exercise of the department's power of eminent domain, if such usage is requested by the governmental unit or board. Where such eminent domain powers are utilized title to acquire property may vest in the governmental unit.]

Section 40. KRS 183.122 is amended to read as follows:

(1) Where necessary, in order to provide unobstructed air space for the landing and taking off of aircraft utilizing airports acquired or operated under the provisions of this chapter, the department is hereby granted authority to [condemn and] acquire, in the same manner as is provided for the acquisition of property for airport purposes, easements through or other interests in air space over land or water, interests in airport hazards outside the boundaries of the airports and such other airport protection privileges, together with rights of ingress and egress thereto and therefrom, as are necessary to insure safe approaches to the landing areas of said airports and the safe and efficient operation thereof. The department is authorized to acquire, in the same manner, the right or easement, for a term of years or perpetually, to place or maintain suitable marks for the daytime marking and suitable lights or marks for the night marking of airport hazards, including the right of ingress and egress to and from such airport hazards for the purpose of maintaining and repairing such lights and marks.

(2) The commissioner may, by order, authorize any airport board or governmental unit to [condemn and] acquire, with the full power of the commonwealth, in the same manner as is provided for the acquisition of property for airport purposes by such board, or governmental unit, any of the interests, easements, airport protection privileges, interests in air space, rights, or hazard marking privileges described in subsection (1), or any real or personal property. [Any condemnation proceeding which may be necessary for such acquisition, if filed under this subsection, shall be filed in the name of the commonwealth on relation of the commissioner of aeronautics, and of the airport board or governmental unit making such acquisition.]

(3) The authority granted in subsections (1) and (2) shall not be so construed as to limit the right, power, or authority of the state or any municipality or governmental unit to zone property adjacent to any airport pursuant to any law of this state.

Section 41. KRS 183.133 is amended to read as follows:

(1) The purpose of the board shall be to establish, maintain, operate, and expand necessary, desirable or appropriate airport and air navigation facilities. It shall have the duty and such powers as may be necessary, or desirable to promote and develop aviation, including air transportation, airports and air navigation facilities.

(2) The board shall establish and fix reasonable rates, charges and fees for the use of the landing area, ramps and other common aviation facilities. In fixing such rates, charges or fees the board may take into consideration, among other factors, the total capital investment by the board or other local or state governmental authority, the revenue needed properly to maintain such facilities, the revenue needed properly to expand the airport and its facilities, the portion of the facilities utilized by the licensee or contracting party and its customers and the volume and type of business conducted. Any party aggrieved by the rates, charges or fees may appeal from the action of the board to the circuit court of the county within which the board operates, within ninety (90) days from the date that the board finally publishes such rates, charges or fees and gives notice of same to the contracting party or licensee. The circuit court may hear evidence and determine whether or not the rates, charges or fees are, or are not, reasonable in amount. Appeal from the judgment of the circuit court may be prosecuted as any other civil appeal.

(3) The board shall likewise have power, from time to time, to fix rates, charges or fees by contract, or by publishing general rates, charges or fees for commercial vendors, concessionaires or other persons for the use or occupancy of terminal or other ground use facilities, under such terms or conditions as it may deem to be in the best interest of maintaining, operating or expanding necessary airport or air navigation facilities, and the public use thereof.

(4) The board may acquire by contract, lease, purchase [,] *or* gift [, condemnation or otherwise] any real or personal property, or rights therein, necessary, for establishing, operating or expanding airports and air navigation facilities. The board may erect, equip, operate and maintain on such property, buildings and equipment necessary, desirable or appropriate for airport or air navigation facilities. The board may dispose of any real or personal property, or rights therein, which, in the opinion of the board are no longer needed for operating or expanding the airport or air navigation facilities.

[(5) The board or any other governmental unit may by resolution reciting that the property is needed for airport or air navigation purposes direct the condemnation of any property, including navigation or other easements. The procedure for condemnation shall conform to the procedures set out in KRS 416.120, or in the alternative, as nearly as practicable to KRS 177.081 to 177.089.]

(5) [(6)] The board or any other governmental unit may from time to time make, adopt and enforce such rules, regulations and ordinances as it may find necessary, desirable or appropriate for carrying into effect the purposes of this chapter, including those relating to the operation and control of the airport, airport facilities or air navigation facilities owned or operated by such board or such other governmental unit. All rules, regulations and ordinances adopted pursuant to this section shall be published according to the provisions of KRS 424.130, and the board or other governmental unit adopting them shall keep a permanent record of such rules, regulations and ordinances available for public inspection, on the airport premises. Prosecution for a violation of any rule, regulation or ordinance adopted pursuant to this section shall be in the police court of any municipality or the county court of any county within which the airport is located.

Section 42. KRS 183.872 is amended to read as follows:

In any case in which it is desired to remove, lower or otherwise terminate a nonconforming use; or the approach protection necessary cannot, because of unconstitutional limitations, be provided by zoning regulations; or it appears advisable that the necessary approach protection be provided by acquisition of property rights rather than by zoning regulations, the department, commission, air board or boards, or governmental unit may acquire by purchase [,] *or* grant [, condemnation or otherwise,] such air right, easement, or other estate or interest in the property or nonconforming use in question as may be necessary to effectuate the purposes of this chapter.

Section 43. KRS 201.050 is amended to read as follows:

(1) The board may acquire by lease, purchase [,] *or* gift [or condemnation,] all property necessary or suitable for establishing the home, and may erect, equip, operate, and maintain such suitable buildings as may be necessary for the care, custody, maintenance, education, and training of the children committed to it. The board shall provide such buildings, grounds, equipment and units, in the county in which the board is created.

(2) When the property of any other board or institution within the county is conveyed to the board, and such property is owned, maintained or controlled in whole or in part by any city or division or district in the city, the conveyance shall first be authorized by the legislative body or other city board of such city or division or district; and when the property is owned, maintained or controlled in whole or in part by the county, the conveyance shall first be authorized by the fiscal court of the county. In either case, the governing body of the institution must also authorize and direct the conveyance to be made. Where any such conveyance is made to

the board, the board shall receive and maintain in the home, all children who, at the time of the conveyance, are in the care and custody of the institution whose property is so conveyed.

(3) The board shall not be compelled to accept any conveyance which the board finds unsuited for the purposes of this chapter, or the improvement of which would entail an injudicious expenditure.

Section 44. KRS 216.335 is amended to read as follows:

The government of the hospital district shall be vested in the board which shall have general control of the property and affairs of the district and shall have all the powers necessary to carry out the purposes of KRS 216.310 to 216.360 including, but not confined to, the following:

(1) To construct, acquire, add to, maintain, operate, develop and regulate, sell and convey all lands, property rights, equipment, hospital facilities and systems for the maintenance of hospitals, buildings, structures and any other facilities;

[(2) To exercise the right of eminent domain for the purposes of the district except that no hospital district shall have the right of eminent domain against any hospital, clinic or sanatorium operated by a nonprofit charitable, religious or public organization, or against any private hospital, clinic or sanatorium;]

(2) [(3)] To receive, acquire, hold, manage, expend, sell and convey donations and bequests of real and personal property for hospital purposes within the district;

(3) [(4)] To establish and maintain a public hospital or hospitals in the district and where necessary make provision for education of needed personnel to operate such hospitals;

(4) [(5)] To lease existing hospital or hospitals and equipment and other property used in connection with the operation of a hospital, and to pay such rental therefor as the board shall deem proper;

(5) [(6)] To enter into contracts and agreements with any person or corporation, public or private, affecting the affairs of the district, including contracts with cities, counties, other municipalities, the commonwealth or the United States of America and any of its agents or instrumentalities;

(6) [(7)] To enter into contracts with a nonprofit corporation acting as a governmental agency for the construction and equipping of a hospital or hospitals, and the leasing of the same to the district;

(7) [(8)] To sue and be sued;

(8) [(9)] To make contracts, employ an administrator, attorneys and other technical or professional assistance and all other employes as the needs of the district may require, and to prescribe their duties and compensation;

(9) [(10)] To have perpetual existence;

(10) [(11)] To borrow money on the credit of the board in anticipation of the revenue to be derived from anticipated revenue from user fees or from taxes levied by the district for the fiscal year in which the money is borrowed, and to pledge the taxes levied for the district for the payment of the principal and interest of the loan;

(11) [(12)] To establish bylaws it deems necessary or expedient to define the duties of officers, assistants or employes, to fix the conditions of admission to the hospitals of the district, and the support and discharge of patients, and to conduct in a proper manner the professional and business affairs of the district;

(12) [(13)] To establish and enforce a suitable system of rules and regulations for the internal government, discipline and management of the hospitals of the district;

(13) [(14)] To determine annually the amount of tax, not to exceed ten cents (10¢) per one hundred dollars ($100) of property assessed for taxation, to be levied upon the taxable property of the district, for the purposes of the district, and to certify to the fiscal court of each county in the district and to each county court clerk for inclusion on the tax bills of property owners in the district.

Section 45. KRS 216.805 is amended to read as follows:

The authority may:

(1) Acquire, construct, reconstruct, maintain, repair, operate, and regulate, health projects including appropriately designed housing for elderly citizens at such locations within the commonwealth of Kentucky, as may be determined by the authority;

[(2) Acquire any interests in real property pursuant to the condemnation procedures of KRS chapter 416 or KRS 177.081 to 177.089;]

(2) [(3)] Notwithstanding KRS chapter 56, the authority may issue revenue bonds payable solely from the charges, revenues, rentals, and other funds pledged for their payment, for the purpose of paying all or any part of the cost of any project or for the acquisition of property;

(3) [(4)] Sell any building, structure, facility, or any interests in land to the commonwealth of Kentucky, the federal, city, or county government, or any person or corporation;

(4) [(5)] Lease any interest in real property, any building, facility, or structure to the commonwealth of Kentucky, the federal, city, or county government or to any person or corporation;

(5) [(6)] Fix and revise from time to time the charges and rent payments which will be paid by the different lessees for the use of the land, buildings and parking facilities;

(6) [(7)] Combine for financing purposes any two (2) or more projects;

(7) [(8)] Establish and enforce rules, specifications, and regulations for the construction and use of any project, except during any period when such powers are assigned to a lessee pursuant to a lease agreement;

(8) [(9)] Notwithstanding KRS chapter 56, to acquire and hold in the name of the authority real and personal property in the exercise of its powers and the performance of its functions and duties under KRS 216.800 to 216.853, and to dispose of these interests in property;

(9) [(10)] Make and enter into such contracts and agreements with the commonwealth of Kentucky or any federal, city, or county government or other person or corporation as may be necessary or incidental to the effectiveness of a project;

(10) [(11)] Employ consulting engineers, attorneys, accountants, construction and financial experts, superintendents, managers, and such other employes and agents as may be necessary in the judgment of the authority, and to fix their compensation;

(11) [(12)] Receive and accept from the commonwealth, the department, any federal agency, and the city or county, grants for or in aid of the construction of any project, and receive and accept aid or contributions from any source of either money, property, labor or other things of value, to be held, used and applied for the purposes for which such grants and contributions may be made; and

(12) [(13)] Do all acts necessary and proper to carry out the powers expressly granted in KRS 216.800 to 216.853.

Section 46. KRS 216.833 is amended to read as follows:

[(1)] The authority may purchase, whenever it shall deem such purchase expedient, from funds provided pursuant to KRS 216.800 to 216.853, lands, structures, property, rights, rights of way, franchise, easements and other interests in land, including lands lying under water and riparian rights, which are located within the commonwealth, as it may deem necessary or convenient for the construction and operation of any project, upon such terms and at such prices as may be considered by it to be reasonable, and can be agreed upon between it and the owner thereof, and to take title thereto in the name of the authority.

[(2) If a reasonable price cannot be agreed upon, or if the owner is legally incapacitated or is absent, unknown or unable to convey valid title, the authority may acquire by condemnation or by eminent domain any lands, property, rights of way, franchises, easements and other property, including public lands, parks, playgrounds, reservations, highways, or parkways, or parts thereof or rights therein, of any person, partnership, association, railroad, public service, public utility or other corporation, or municipality or political subdivision, deemed necessary or convenient for the construction or the efficient operation of any project or necessary in the restoration of public or private property damaged or destroyed. Any such proceedings shall be conducted, and the compensation to be paid shall be ascertained and paid, in the manner provided by the constitution and laws of the commonwealth which relate to condemnation or to the exercise of the power of eminent domain. Title to any property acquired by the authority shall be taken in the name of the authority. In any condemnation proceedings the court having jurisdiction of the suit, action or proceeding may make such orders as may be just to the authority and to the owners of the property to be condemned and may require an undertaking or other security to secure such owners against any loss or damage by reason of the failure of the authority to accept and pay for the property, but neither such undertaking or security nor any act or obligation of the authority shall impose any liability upon the commonwealth except as may be paid from the funds provided under KRS 216.800 to 216.853.

(3) If the owner, lessee or occupier of any property to be condemned shall refuse to remove his personal property therefrom or give up his possession thereof, the authority may proceed to obtain possession in any manner provided by law.]

Section 47. KRS 220.110 is amended to read as follows:

If no suit is filed against the commissioner under KRS 220.100, or if suit is filed and final judgment in the circuit court or an appeal is in favor of the commissioner, the commissioner shall forthwith declare the district organized into a sanitation district and give it a corporate name, as provided in KRS 220.050, by which in all proceedings it shall thereafter be known. The commissioner shall certify his act to the county court clerk of each county in which any part of the district is located, and to the secretary of state, each of whom shall record the certificate as articles of incorporation. The commissioner shall also certify his act to the county judge of each county in which any part of the district is located. The district shall then be a political subdivision and shall have perpetual existence, except as otherwise specifically provided in KRS 220.530, with power to sue and be sued, contract and be contracted with, incur liabilities and obligations, [exercise the right of eminent domain,] assess, tax, and contract for rentals as herein provided, issue bonds, and do and perform all acts herein expressly authorized and all acts necessary and proper for the carrying out of the purpose for which the district was created, and for executing the powers with which it is invested.

Section 48. KRS 224A.070 is amended to read as follows:

The authority is expressly empowered to carry out and perform the following essential governmental functions of statewide import and concern:

(1) To adopt comprehensive rules, regulations and bylaws for the regulation of its affairs and the conduct of its business, which may define with specificity conditions precedent under which applications for state grants may be made and the order of priority upon which applications shall be acted upon;

(2) To retain an executive director, who shall be experienced and knowledgeable in the fields in which said authority is empowered to act, together with such other employes as shall be necessary and appropriate to enable the authority to fulfill its duties, functions and responsibilities;

(3) To adopt a corporate seal;

(4) To sue and be sued in its own name and to have the right, power, and authority to enforce its obligations and covenants made pursuant to the provisions of this chapter;

(5) To levy a tax on every purchase of water service in the Commonwealth of Kentucky, such tax to be equal to not more than two per cent (2%) of the gross amount of the bill for water services rendered;

(6) To approve or reject applications made to the authority for state grants;

(7) To make state grants to any governmental agency for the purpose of assisting such governmental agency in the construction of eligible projects. All such state grants shall be payable to the governmental agency in accordance with the terms and conditions of an assistance agreement by and between the authority and such governmental agency, which shall include the provisions and conditions specified in KRS 224A.100, and such other reasonable terms and conditions as the authority shall determine;

[(8) Without reference to the provisions of KRS Chapter 56, to acquire and hold in the name of the authority, by the exercise of the power of eminent domain pursuant to all authority specified in KRS 416.115, such real property or rights therein, including rights-of-way, easements and licenses, and such personal property as may be reasonably deemed necessary in order to effectuate the development, implementation, financing, and construction of any eligible project, and to make such properties available to governmental agencies in connection with eligible projects;]

(8) [(9)] To receive service charges from governmental agencies which have entered into assistance agreements with the authority, in accordance with the terms and conditions of such assistance agreements, and to use and employ such service charges in accordance with the provisions of this chapter, such service charges to constitute authority revenues;

(9) [(10)] To enforce assistance agreements made and entered into with governmental agencies by suit, action, mandamus or other proceedings, including the obtaining by judicial decree of the appointment of a receiver to administer eligible projects partially financed by state grants which have been undertaken by governmental agencies;

(10) [(11)] To have, possess and exercise all other powers reasonably incident to the carrying out of the duties and responsibilities of the authority.

Section 49. KRS 247.140 is amended to read as follows:

(1) The state fair board:

(a) Shall have the custody and control of such property as now is under its custody and control, and of such property as may hereafter be placed under its control or transferred to it by the state property and buildings commission, for any purposes mentioned in this section and the physical properties so under its custody and control or transferred to it are hereinafter referred to in this section, and in KRS 247.150 and 247.160, as the "state fair grounds and an area in a city of the first class to be used as an exhibition center."

(b) May erect and repair buildings on the state fair grounds and exhibition center, make any and all necessary or proper improvements, and generally carry on a program of development and extension of facilities designed to accomplish the objects defined in this section.

(c) Shall promote the progress of the state and stimulate public interest in the advantages and development of the state by providing the facilities of the state fair grounds for agricultural and industrial exhibitions, public gatherings, cultural activities, and other functions calculated to advance the educational, physical and cultural interests of the public and by providing the facilities of the exhibition center for conventions, trade shows, public gatherings and other functions calculated to advance and enhance the visitor industry, economy, entertainment, cultural and educational interests of the public.

(d) May hold an annual fair on the state fair grounds, for the exhibition of agricultural, mechanical, horticultural, dairy, forestry, poultry, livestock, mineral, and all other industrial interests of the state, and prepare premium lists and establish rules of exhibition for the fair.

(2) The state fair board may take, acquire and hold property, and all interest therein, by deed, gift, devise, bequest, lease, [or eminent domain,] or by transfer from the state property and buildings commission, and may dispose of any property so acquired in the manner provided by law. [In the exercise of its power of eminent domain it may proceed in the manner provided in KRS 416.115 or in the manner provided in KRS 416.120.]

Section 50. KRS 249.580 is amended to read as follows:

The board of supervisors shall constitute a public body corporate with perpetual succession and power in its name to:

(1) Contract and be contracted with, sue and be sued, adopt bylaws and have and use a corporate seal.

(2) Levy ad valorem taxes upon all the taxable property within the district as provided in KRS 249.610.

(3) Take measures necessary and proper for the control of all species of mosquitoes and other arthropods of public health importance by providing for the construction and maintenance of impoundments of canals, ditches, drains, dikes, fills and other necessary works, installing and maintaining pumps, excavators, and other machinery and equipment, and employing larvicides and other control materials meeting the standards established by the department.

(4) Acquire by purchase, gift, grant, bequest [,] *or* devise, [or through condemnation proceedings in the manner provided in KRS 416.010 to 416.080,] such lands or rights of way as are necessary for the exercise of the authorized functions of the district.

(5) Hold, lease and convey real estate and personal property deemed necessary and proper to carry out the purposes of the mosquito control law.

(6) Employ a district superintendent who is an engineer, entomologist, or otherwise qualified as an arthropod control specialist, and other personnel required in performance of the authorized functions of the district.

(7) Borrow money in anticipation of revenue receipts to meet the current expenses of the district. Such current borrowing shall not exceed seventy-five per cent (75%) of the unrealized and unencumbered revenue estimated in the budget to be derived from the tax levy for the then current fiscal year.

(8) Conduct arthropod control measures in cooperation or by contract with individuals, firms, corporations, and federal, state and local governmental agencies.

Section 51. KRS 262.745 is amended to read as follows:

Subject to the approval of the board of supervisors, the board of directors of a watershed conservancy district shall have power to:

(1) Levy an annual tax on the real property within the district within the limitations provided in KRS 262.760 for administration, construction, operation and maintenance of works of improvement within the district.

(2) Acquire by purchase, gift, grant, bequest [,] *or* devise, [or through condemnation proceedings in the manner provided in KRS 104.170,] the fee simple title or any lesser interest in land including easements and flowage rights as are necessary for the exercise of any authorized function of the district, and for such purpose, may cause examinations and surveys to be made of any lands, easements or rights of way necessary for the performance of any authorized function of the district.

(3) Construct, improve, operate and maintain such structures as may be necessary for the performance of any function authorized by KRS 262.700 to 262.795.

(4) Borrow such money as is necessary for the purpose of acquiring lands or rights of way and establishing, constructing, reconstructing, repairing, enlarging and maintaining such structures and improvements as are required by the district in the performance of its functions, and issue, negotiate and sell its bonds as provided in KRS 262.750.

Section 52. KRS 266.130 is amended to read as follows:

The board of levee commissioners may enter upon, acquire, take and hold any lands or premises necessary and proper for locating, constructing, reconstructing, enlarging, extending, repairing and maintaining its line of levees, as well as for the cutting of ditches for the purpose of relieving the levees and the lands adjacent thereto enlarged by sipe and rain water. The board may also cut and remove trees, timbers and other materials that may, by falling or otherwise, encumber or endanger any levee. [In case the owners cannot agree with the board as to the value of any property taken under authority of this section, the board may condemn the property in the manner provided in KRS 416.010 to 416.080.]

Section 53. KRS 267.100 is amended to read as follows:

Except as provided in KRS 267.010, 267.090 and 267.490, the directors from the various districts of the county shall constitute the county board of drainage commissioners, with the right to acquire, hold, encumber, sell and convey any property necessary to the conduct of its affairs, with all rights and powers of a corporation, and with all other rights and powers necessary to carry out its work under the provisions of this chapter [, including the right of eminent domain].

Section 54. KRS 268.510 is amended to read as follows:

(1) In order to effect the drainage, protection and reclamation of the land and other property in any district organized under this chapter subject to assessment, to protect cities from overflow, and to promote the public health or general welfare of the community, the board acting for the district may clean out, alter, construct or maintain any drain in or out of the district, and construct and maintain any levees, dikes, dams, revetments, reservoirs, holding basins, floodways, pumping stations, syphons and any other work and improvements deemed necessary to preserve and maintain the works or prevent overflow of land or protect any city or parts thereof in or out of the district. The board may construct or enlarge any bridge needed in or out of the district across any drain or other improvement or any public highway, railroad right of way, track, grade, fill or cut, subject to the provisions of KRS 268.530; construct roadways upon, along and over levees and embankments; remove any fence, building or improvement in or out of the district.

(2) The board may hold, control and acquire by donation or purchase, [or, if need be, condemn] any land, easement, railroad right of way, sluice, conduit, sewer, holding basin or franchise in or out of the district for any purpose provided for in this chapter.

[(a) The board may also condemn, in the manner provided in KRS 416.010 to 416.080, for the use of the district any property within or without the district not acquired or condemned by the court on the report of the appraisers.]

(3) The board may control all water power created by the construction of improvements in the district, and construct and maintain any hydroelectric power plants to develop such power for the use of the district and use any funds in the treasury of the district not otherwise appropriated for the construction and maintenance of such plants. The board may lease any power in excess of that required for the use of the district. The proceeds of such lease shall be turned into the treasury of the district.

(4) However, the construction or maintenance of any improvement shall not impair navigation upon any navigable stream in this state.

Section 55. KRS 280.140 is amended to read as follows:

(1) When a corporation heretofore or hereafter organized under the general incorporation laws of this state for the purpose of constructing, maintaining and operating a bridge across a river forming a boundary line of this state has, with the consent of its stockholders, heretofore consolidated, or may hereafter consolidate, with a corporation organized for the same purpose under the laws of any other state, the consolidated corporation shall, upon filing a verified copy of the agreement of consolidation with the secretary of state, have the rights, powers, privileges and immunities of a corporation under the laws of this state, and shall become a corporation of this state, with the right of perpetual succession. The consolidated corporation shall have the power to construct, maintain and operate such a bridge [, and the power to condemn land in this state necessary for the construction, operation and maintenance of the bridge and its avenues, approaches and necessary appurtenances, the proceedings to be conducted in the manner prescribed by law for the condemnation of lands for railroad purposes]. No bridge constructed under this section, nor any main or principal approach thereof, shall cross any railway at grade thereof.

(2) The consolidated corporation may increase its capital stock from time to time to an amount sufficient for the construction of the bridge, but not to exceed the amount of the capital stock authorized in the articles of incorporation of its Kentucky constituent corporation, and may create an indebtedness not exceeding the amount of its capital stock, and secure the indebtedness by a mortgage upon its property, franchises and rights.

(3) The filing of a copy of the agreement of consolidation with the secretary of state shall operate as an acceptance by the consolidated corporation of the provisions of the constitution and of all the provisions of this section and of KRS 280.150.

Section 56. KRS 350.152 is amended to read as follows:

(1) The commonwealth, acting by and through its department for *finance and administration* [natural resources and environmental protection], shall have the power to acquire, either by negotiation or by exercise of the power of eminent domain, land which has been affected or disturbed by strip or auger mining, which consists of orphan banks or unreclaimed spoil piles.

(2) Prior to acquiring any land pursuant to KRS 350.152 to 350.163 and 350.240, the department of environmental protection shall extend to the owners thereof an opportunity to backfill, grade, plant and do other acts of restoration thereon to the same extent and within the same time limits as prescribed by KRS chapter 350 and regulations adopted pursuant thereto. If the owner or owners agree in writing to perform such restoration and, weather permitting, start such restoration within a period of thirty (30) days, the land shall not be acquired by the commonwealth.

(3) The department of environmental protection shall attempt to purchase any land which it has determined should be acquired for the purpose of restoration and which the owners have not agreed to restore as provided in subsection (2) above. In any case where the department and the owners of the land are unable to agree upon the amount to be paid for the land, the department may *request the Executive Department for*

Finance and Administration to exercise the power of eminent domain against such land by filing a condemnation suit under any procedure as provided in KRS chapter 416.

(4) The purchase price, in the case of a negotiated acquisition, or the damages as finally determined, in the case of acquisition by condemnation, and the necessary expenses incidental thereto, shall be paid from appropriations made by the general assembly for such purposes and appropriations to which federal funds made available for such purposes have been credited.

Section 57. KRS 352.110 is amended to read as follows:

(1) No operator, superintendent or mine foreman of any mine opened after June 16, 1972, shall permit persons to work therein unless there are to every seam of coal or clay worked in the mine at least two separate outlets, separated by natural strata of not less than one hundred fifty feet in breadth if the mine is worked by shaft or slope, and separated by natural strata of not less than fifty feet in breadth if the mine is worked by drift, by which outlets distinct means of ingress and egress are readily available to persons employed in the mine, but it shall not be necessary for the two outlets to belong to the same mine. This subsection does not apply to the openings of a new entry that is being worked for the purpose of making connection between the two outlets so long as not more than twenty persons are employed at one time in making the connection or driving the second opening, or to any mine in which the second opening has been rendered unavailable by reason of final robbing or removal of pillars so long as not more than twenty persons are employed therein at one time, and the workings are no farther than five hundred feet from the bottom of the shaft or slope or from the drift opening.

(2) Where punch mining is done, the width of pillars between openings shall be subject to the approval of the mine inspector and the commissioner.

[(3) If any mine has but one means of ingress or egress for persons employed therein, and the owner does not own suitable ground for another opening, the owner may select appropriate adjacent ground for that purpose and have it condemned, by proceedings similar to those allowed for securing a private passway, in the county court of the county where the mine is situated.]

Section 58. KRS 58.140, 74.090, 80.150, 80.540, 96.080, 96.178, 96.547, 96.580, 96.590, 96.600, 96.610, 96.620, 96.630, 97.257, 99.420, 107.390, 109.160, 150.024, 152.850, 162.030, 181.620, 182.170, 183.490, 196.140, 201.070, 212.590, 220.310, 224.130, 267.280, 267.450, 268.570, 269.210, 277.040, 381.580, 381.590, 381.600, 381.610, 381.620, 381.630, 381.635, 381.660, 416.220 and 416.340 are repealed.

HB 407, AN ACT relating to equal opportunity.

WHEREAS, it is the policy of this state to guarantee handicapped persons the fullest participation in the social and economic life of the state, to guarantee the right to engage in remunerative employment, and to secure property of their choice; and

WHEREAS, the right to lawful employment, without discrimination because of physical or mental handicap, where the reasonable demands of the position do not require such a distinction, and the right to the purchase or rental of property without discrimination because of physical or mental handicap are hereby recognized as and declared to be the rights of all the people of the state; and

WHEREAS, it is hereby declared to be the policy of the state to protect these rights:

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 207 is created to read as follows:

This Act shall be known and may be cited as the "1976 Equal Opportunities Act."

Section 2. A new section of KRS Chapter 207 is created to read as follows:

As used in this chapter unless the context otherwise requires:

(1) "Persons" means one or more individuals, partnerships, municipalities, the state, or other political subdivisions within the state, associations, labor organizations, or corporations.

(2) "Physical Handicap" means the physical condition of a person whether congenital or acquired, which constitutes a substantial disability to that person and is demonstrable by medically accepted clinical or laboratory diagnostic techniques.

(3) "Mental Handicap" means the mental condition of a person, whether physically or psychologically caused, which constitutes a substantial impairment of one or more brain functions, or substantial emotional distress and is demonstrable by medically accepted clinical or laboratory diagnostic techniques.

(4) "Employer" means a person or governmental unit or officer in this state having in his or its employ eight or more individuals; and any person acting in the interest of an employer, directly or indirectly.

(5) "Labor organization" means a labor organization and an agent of such an organization, and includes an organization of any kind, an agency or employe representation committee, group, association, or plan so engaged in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours, or other terms or conditions of employment, and a conference, general committee, joint or system board, or joint council so engaged which is subordinate to a national or international labor organization.

(6) "Property" means any building, structure, or portion thereof which is occupied as, or designed or intended for occupancy, as a residence, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof.

(7) "To rent" includes to lease, to sublease, to furnish as compensation, to let and otherwise grant for a consideration the right to occupy premises not owned by the occupant.

(8) "Unfair employment practice" means an act that is prohibited under Sections 4, 5 or 6 of this Act.

(9) "Unfair housing practice" means an act that is prohibited under Sections 7 or 8 of this Act.

Section 3. A new section of KRS 207 is created to read as follows:

(1) Nothing contained in this Act shall be construed to prevent an employer from making any pre-employment inquiry about the existence of an applicant's handicap and about the extent to which that handicap has been overcome by treatment, medication, appliances, or other rehabilitation.

(2) Nothing contained in this Act shall be construed to prohibit the rejection of an applicant for employment or housing on the basis of:

(a) A physical or mental handicap which interferes with a person's ability to adequately perform assigned job duties;

(b) Any handicap which is not demonstrable by medically accepted clinical or laboratory diagnostic techniques, including, but not limited to, alcoholism, drug addiction, and obesity; or

(c) Any communicable disease, either carried by, or afflicting the applicant.

Section 4. A new section of KRS Chapter 207 is created to read as follows:

(1) No employer shall fail or refuse to hire, discharge or discriminate against any handicapped individual with respect to wages, rates of pay, hours, or other terms and conditions of employment because of such person's physical or mental handicap unless such handicap restricts that individual's ability to engage in the particular job or occupation for which he or she is eligible, or unless otherwise provided by law; nor shall any employer limit, segregate or classify handicapped individuals in any way which would deprive or tend to deprive any handicapped individual of employment opportunities or otherwise affect employe status because of physical or mental handicap, unless such handicap constitutes a bona fide and necessary reason for such limitation, segregation or classification. This subsection shall not be construed to require any employer to modify his physical facilities or grounds in any way, or exercise a higher degree of caution for a handicapped individual than for any person who is not a handicapped individual.

(2) No employment agency, placement service, training school or center or labor organization shall fail or refuse to refer for employment or otherwise discriminate against individuals because of physical or mental handicap.

Section 5. A new section of KRS Chapter 207 is created to read as follows:

No labor organization shall exclude or expel from its membership, or otherwise discriminate against individuals because of physical or mental handicap; nor shall a labor organization limit, segregate, or classify its membership, nor classify or fail or refuse to refer for employment any handicapped individual, in any way which would deprive or tend to deprive any handicapped individual of employment opportunities, or otherwise affect employe status or employment applicant status or as would adversely affect such person's wages, hours or conditions of employment, because of physical or mental handicap.

Section 6. A new section of KRS Chapter 207 is created to read as follows:

(1) No employer shall discharge, expel, refuse to hire, or otherwise discriminate against any person or applicant for employment, nor shall any employment agency discriminate against any person, nor shall a labor organization discriminate against any member or applicant for membership because such person has opposed any practice made an unfair employment practice by this Act or because he has filed a charge, testified, assisted or participated in any manner in an investigation, citizen's action suit, proceeding or hearing under this Act.

(2) No employer, labor organization, or joint labor-management committee controlling apprenticeship programs or other training or retraining, including on-the-job training programs, shall discriminate against any individual because of physical or mental handicap in admission to, or employment in, any program established

to provide apprenticeship or other training, except as otherwise provided by law.

Section 7. A new section of KRS Chapter 207 is created to read as follows:

(1) No person shall refuse to sell or rent after the making of a bona fide offer, or refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny property to any individual because of sex, or because of physical or mental handicap.

(2) No person shall discriminate against any individual in the terms, conditions or privileges of sale or rental of property, or in the provision of services or facilities in connection therewith, because of such individual's sex, or because of physical or mental handicap; however, this subsection shall not be construed to require any person selling or renting property to modify such property in any way or exercise a higher degree of care for a handicapped individual than for a person who is not a handicapped individual; nor shall this subsection be construed to relieve any person of any obligation generally imposed on all persons regardless of whether or not the person is a handicapped individual in a written lease, rental agreement, or contract of purchase or sale, or to forbid distinctions based on the inability to fulfill the terms and conditions, including financial obligations of such lease, agreement or contract.

(3) No person shall make, print, or publish, or cause to be made, printed or published any notice, statement, or advertisement with respect to the sale or rental of property that indicates any limitation or restriction as to individuals based on sex, or because of physical or mental handicap, or an intention to make any such limitation or restriction; or

(4) No person shall represent to any individual because of sex or because of physical or mental handicap that any property is not available for inspection, sale or rental when such property is in fact so available.

(5) Nothing in this section shall apply to:

(a) Discrimination on the basis of sex by the YMCA, YWCA and similar type single sex dormitory rental properties and any other rental properties where there are common rather than private bathroom and sanitary facilities; or

(b) A landlord who refuses to rent to an unmarried couple of opposite sexes.

Section 8. A new section of KRS Chapter 207 is created to read as follows:

No bank, building and loan association, insurance company or other corporation, association, firm or enterprise whose business consists in whole or in part in the making of commercial real estate loans, shall deny a loan or other financial assistance to a handicapped individual applying therefor for the purpose of purchasing, constructing, improving, repairing, or maintaining property, or discriminate against him in the fixing of the amount, interest rate, duration, or other terms or conditions of such loan or other financial assistance because of such individual's physical or mental handicap when such handicap does not impair his or her ability to fulfill the terms or conditions of such loan or other financial assistance.

Section 9. A new section of KRS Chapter 207 is created to read as follows:

(1) The Kentucky Department of Labor is authorized to enforce the employment provisions of this Act in conjunction with the State Attorney General's office and the state and local courts.

(2) Any handicapped individual requesting the intervention of the Kentucky Department of Labor under this section shall, within 180 days of the alleged incident, submit with his request a signed, sworn statement specifying and describing the handicap or handicaps which affect him. This statement may be used by the Commissioner of Labor or his representative to determine if the individual does, or does not, have a "physical handicap" or "mental handicap" as defined in Section 2(2) and 2(3) of this Act. If the Commissioner of Labor or his representative determines that the aggrieved individual does have a handicap which falls under one of the definitions in Section 2(2) or 2(3) of this Act, the Department of Labor shall provide a copy of the aggrieved individual's signed statement to the employer for his inspection.

(3) In the event the employer wishes to challenge the validity of the statement, he shall so notify the Commissioner of Labor, who shall in turn notify the aggrieved individual. If the aggrieved individual wishes the Department of Labor to continue its involvement with the case, he shall be required to submit to the Commissioner of Labor, within 30 days of such notice, a signed, sworn statement from a licensed physician of his choice, or from one of the state or federal agencies serving the handicapped:

(a) Specifying and describing the handicap or handicaps affecting the individual; and

(b) Indicating any specific type of employment for which such handicap should be considered a bona fide or necessary reason for limitation or exclusion.

(4)(a) The state agencies which may be consulted under subsection (3) of this section may include, but are not limited to, the following:

1. Department of Education, Bureau of Rehabilitation Services;
2. Department for Human Resources, Bureau of Health Services;

3. Department for Human Resources, Division of Disability Determination.

(b) The Commissioner of Labor, in conjunction with the agencies designated in this subsection, is authorized to adopt appropriate regulations governing the issuance and setting the standards of determinations of ability or disability;

(c) The agencies designated in this subsection, and any other state agency which serves the handicapped and the Commissioner of Labor deems proper, shall cooperate to the fullest with the Department of Labor in issuing statement of disability and limitations as specified in subsection (3) of this section within 20 days of the date the handicapped individual presents himself before such agency for examination.

(5)(a) For the purposes of this Act, the Commissioner of Labor, or his authorized representative, shall have the power to enter the place of employment of any employer, labor organization or employment agency to inspect and copy employment records, to compare character of work and operations on which persons employed by him are engaged, to question such persons, and to obtain such other information as is reasonably necessary to make a preliminary determination that the aggrieved individual is, or is not, fully capable of carrying out the duties of the job which he or she had been denied;

(b) In the event that a preliminary determination is made that the aggrieved individual is not fully capable of carrying out the duties of the job which he or she had been denied, the aggrieved individual and the employer shall both be so advised;

(c) The aggrieved individual, within ten (10) days of receiving such notification, may file with the Department of Labor an application for reconsideration of the determination. Upon such application, the Commissioner of Labor or his representative shall make a new determination within ten (10) days whether the aggrieved individual is, or is not, fully capable of carrying out the duties of the job which he or she had been denied. If the determination is again made that the aggrieved individual is not fully capable of carrying out these duties, the aggrieved individual and the employer shall both be so advised;

(d) In the event that a preliminary determination has been made that the aggrieved individual is fully capable of carrying out the duties of the job which he or she had been denied, the employer, labor organization or employment agency shall be so advised and encouraged to make an immediate offer to the aggrieved individual of the position which he or she had been denied. In the event the position has already been filled, the employer, labor organization or employment agency shall be encouraged to make an offer to the aggrieved individual of the next available position for which he or she is qualified.

Section 10. A new section of KRS Chapter 207 is created to read as follows:

(1) In the event the employer, labor organization or employment agency continues to refuse employment to the aggrieved individual, the aggrieved individual may file a formal administrative complaint with the Department of Labor and, upon such filing, the Commissioner of Labor or his representative is authorized to examine witnesses under oath, and to require by subpoena the attendance and testimony of witnesses and the production of any documentary evidence relating to the subject matter of the investigation. In the event of the failure of any person to attend, testify, or produce documents under or in response to a subpoena, the circuit court in the judicial district where the hearing is being held, on application of the commissioner or his representative, may issue an order requiring said person to appear before the commissioner or his authorized representative, or to produce documentary evidence, and any failure to obey such order of the court may be punished by the court as a contempt thereof.

(2) If the Department of Labor determines that the employer, labor organization or employment agency has not engaged in an unfair employment practice, it shall state its findings of fact and conclusions of law and shall issue an order dismissing the complaint. A copy of the order shall be delivered to the complainant, the employer, labor organization or employment agency and such other public officers and persons as the Department of Labor deems proper.

(3) If the Department of Labor determines that the employer, labor organization or employment agency has engaged in an unfair employment practice, the department shall state its findings of fact and conclusions of law and shall issue an order requiring the employer, labor organization or employment agency to cease and desist from the unlawful practice and to take such affirmative action as in the judgment of the department will carry out the purposes of this Act. A copy of the order shall be delivered to the employer, the labor organization or employment agency, the complainant, and to such other public officers and persons as the Department of Labor deems proper.

(4) Affirmative action ordered under this section may include, but is not limited to:

(a) Hiring, reinstatement, or upgrading of employes with or without back pay. Interim earnings or amounts earnable with reasonable diligence by the aggrieved individual shall operate to reduce the back pay otherwise allowable;

(b) Admission or restoration of the aggrieved individual to union membership, admission to or participation in a guidance program, apprenticeship training program, on-the-job training program, or other occupational training or retraining program, and the utilization of objective criteria in the admission of individuals to such programs;

(c) The extension to all individuals of the full and equal enjoyment of the advantages, facilities, privileges and services of the employer;

(d) Reporting as to the manner of compliance;

(e) Posting notices in conspicuous places in the employer's place of business in form prescribed by the Department of Labor.

Section 11. A new section of KRS Chapter 207 is created to read as follows:

Cities and counties may adopt and enforce, or authorize commissions or agencies to enforce ordinances, orders and resolutions prohibiting unfair treatment of individuals on the basis of physical or mental handicap, and may prescribe penalties for violation thereof, such penalties being in addition to those herein authorized.

Section 12. A new section of KRS Chapter 207 is created to read as follows:

Notwithstanding the provisions of Sections 9 and 10 of this Act, citizen suits may be commenced under the following terms and conditions:

(1) Any person deeming himself injured by any act in violation of the provisions of this chapter shall have a civil cause of action in circuit court to enjoin further violations, and to recover the actual damages sustained by him, and upon judicial finding of any violation of Sections 4, 5, 6, 7, or 8 of this Act, shall recover the costs of the law suit, including a reasonable fee for his attorney of record, all of which shall be in addition to any other remedies contained in this chapter.

(2) Notice. No action may be commenced:

(a) Prior to thirty (30) days after the plaintiff has given notice of the violation to the Commissioner of Labor.

(b) If the Commissioner of Labor has commenced and is diligently prosecuting a civil action to require compliance with this chapter; however, the aforementioned conditions do not prohibit citizen-initiated civil enforcement action contemporaneously with criminal enforcement efforts by the state.

(c) In any civil action under this section, the Commissioner of Labor, if not a party, may intervene only with consent of the person bringing the action. If the administrator is allowed to intervene, he may not alter the cause of action, delay the proceedings, or make any decisions, settlement agreements, or agree to any consent orders or enforcement proceeding without the informed consent of the person initiating the citizens enforcement action.

Section 13. A new section of KRS Chapter 207 is created to read as follows:

Any person who commits an unfair employment practice as defined in Sections 4, 5 and 6 or an unfair housing practice as defined in Sections 7 and 8 shall be fined not more than $1,000 or imprisoned not more than thirty (30) days or both.

HB 446, AN ACT relating to legal actions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 452.450 is amended to read as follows:

(1) Excepting the actions mentioned in KRS 452.400 to 452.420 both inclusive, and in KRS 452.430, 452.440, 452.445, 452.455, 452.465 and 452.475, an action against a corporation which has an office or place of business in this state, or a chief officer or agent residing in this state, must be brought in the county in which such office or place of business is situated or in which such officer or agent resides; or, if it be upon a contract, in the above-named county, or in the county in which the contract is made or to be performed; or, if it be for a tort, in the first-named county, or the county in which the tort is committed.

(2) Excepting the actions mentioned in KRS 452.400 to 452.420 both inclusive, and in KRS 452.430, 452.440, 452.445, 452.455, 452.465 and 452.475, an action brought against an individual residing in this state, must be brought in the county in which said individual resides; or, if it be upon a contract, in the above-named county, or in the county in which the contract is made or to be performed.

HB 479, AN ACT relating to peace bonds.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 431 IS CREATED TO READ AS FOLLOWS:

A person may be arrested for the purpose of requiring of him security to keep the peace, or for his good behavior, in the following cases:

(1) Upon the complaint on oath, of a person threatened, to a magistrate, that the defendant has threatened to commit an offense against his person or property, and upon the magistrate being satisfied, by examination on oath of the complainant or others, that there are reasonable grounds to fear the commission of the offense threatened.

(2) Upon information given on oath to a magistrate, by any person, that the defendant is about to commit violence endangering human life, or is about to commit an offense amounting to a felony, and the magistrate being satisfied, by an examination on oath of the informant or others, that there are reasonable grounds for apprehending the commission of such violence or felony.

(3) If a magistrate or court be satisfied, by the conduct or words of a person in the presence of such magistrate or court, or from proof given before such magistrate or court, that there are reasonable grounds for apprehending that such person will commit an offense against the person or property of another.

SECTION 2. A NEW SECTION OF KRS CHAPTER 431 IS CREATED TO READ AS FOLLOWS:

If the defendant be in the presence of the court or magistrate, a peace officer shall be verbally directed by the court or magistrate to take him into custody. If not in the presence of the magistrate, he shall issue a warrant of arrest, directed to any peace officer of the county, or city, or town, commanding him to arrest the defendant and bring him before the magistrate. The complaint, information or proof shall be briefly recited in the warrant.

SECTION 3. A NEW SECTION OF KRS CHAPTER 431 IS CREATED TO READ AS FOLLOWS:

Upon the defendant being brought before the magistrate, or being taken into custody by order of a court or magistrate, the court or magistrate shall hear the evidence which may be produced on either side; and if satisfied that there are reasonable grounds for apprehending that the defendant will commit an offense against the person or property of another, or will commit violence endangering human life, or an offense amounting to felony, may require of him surety to keep the peace, or for his good behavior, in a sum not exceeding five thousand dollars, if human life be endangered, or one thousand dollars in other cases; and in default of giving such surety, may commit the defendant to jail, for a period not exceeding three months, unless he shall, in the meantime, give such surety.

SECTION 4. A NEW SECTION OF KRS CHAPTER 431 IS CREATED TO READ AS FOLLOWS:

The security required by a circuit, county or police court may be for keeping the peace, or for good behavior, for any length of time not exceeding one year. If it be required by a magistrate, it shall be for keeping the peace, or for good behavior, until the defendant shall appear before the circuit court of the county, on the first day of its next term, before which court the defendant shall also be bound, with surety, to appear, and not depart without leave of the court.

SECTION 5. A NEW SECTION OF KRS CHAPTER 431 IS CREATED TO READ AS FOLLOWS:

The magistrate shall return the bond of the defendant and his surety for his appearance and keeping the peace, to the clerk of the circuit court, before its next term.

SECTION 6. A NEW SECTION OF KRS CHAPTER 431 IS CREATED TO READ AS FOLLOWS:

Upon the defendant appearing, the court shall examine the case, and either discharge the defendant or require surety to keep the peace, or for his good behavior, for a period not exceeding one year; and, in default of giving such surety, may commit the defendant to jail for a period to be fixed by the court, not exceeding three months, unless he shall, in the meantime, give security. If a defendant be committed to jail for failure to give bond as above provided, the cause of commitment, and the sum in which he is required to give security, shall be stated in the written order of commitment, which shall be delivered to the jailer.

SECTION 7. A NEW SECTION OF KRS CHAPTER 431 IS CREATED TO READ AS FOLLOWS:

Any magistrate or court of the county may take the surety required by the foregoing provisions of a defendant committed to jail, for default of giving such security.

SECTION 8. A NEW SECTION OF KRS CHAPTER 431 IS CREATED TO READ AS FOLLOWS:

If the proceedings be taken upon the complaint of the person threatened, if he fails to appear before the court or magistrate, the defendant shall be discharged.

SECTION 9. A NEW SECTION OF KRS CHAPTER 431 IS CREATED TO READ AS FOLLOWS:

Unless the court or magistrate be satisfied that there are reasonable grounds for believing that the defendant will commit an offense against the person or property of another, or commit violence endangering human life, or an offense amounting to felony, he shall be discharged.

SECTION 10. A NEW SECTION OF KRS CHAPTER 431 IS CREATED TO READ AS FOLLOWS:
The following are breaches of the bond required in this Act:

(1) The failure of the defendant to appear in the circuit court, if the bond requires such appearance, or departing therefrom before he is lawfully discharged.

(2) A judicial conviction of the defendant of an offense involving a breach of the peace, within the period specified in the bond.

(3) A judicial conviction of the defendant of a felony within the time specified in the bond, if the bond be for his good behavior.

SECTION 11. A NEW SECTION OF KRS CHAPTER 431 IS CREATED TO READ AS FOLLOWS:
The attorney for the Commonwealth may proceed by action, in the name of the Commonwealth, against the defendant and his surety, upon a breach of the bond.

SECTION 12. A NEW SECTION OF KRS CHAPTER 431 IS CREATED TO READ AS FOLLOWS:
If the security required in Sections 1 through 12, inclusive, of this Act, be given in court, it may be by a recognizance entered into in open court, and entered upon the records by the clerk.

SB 21, AN ACT relating to children.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 208.110 is amended to read as follows:

(1) The law relating to the persons by whom and the circumstances under which a person may be arrested for a public offense shall be applicable to children, but the taking of a child into custody under such law shall not be termed an arrest, and a child after having been so taken into custody shall be dealt with as provided in KRS 208.010 to 208.540. The law relating to bail shall not be applicable to children detained in accordance with KRS 208.010 to 208.540.

(2) When a child is taken into custody by a person other than a peace officer, on a charge of committing a public offense, such person shall as soon as possible place the child in the custody of a peace officer.

(3) When a peace officer has taken or received a child into custody on a charge of committing an offense, under the provisions of KRS 208.020(1)(a), (b), or (c) the officer shall immediately notify the parent, or if the parent is not available, then a relative, guardian, or custodian of the child, that the child has been detained, give an account of specific charges against the child, including the specific statute alleged to have been violated, and the reasons for the detention, and state the time and place of the detention hearing. Unless the nature of the offense or other circumstances are such as to indicate the necessity of keeping the child in secure custody, the officer shall release the child to the custody of his parent or other responsible adult upon the written promise, signed by such person, to bring the child to the court at a stated time or at such time as the court may direct. The written promise, accompanied by a written report by the officer, shall be submitted to the court forthwith. If the person fails to produce the child as agreed or upon notice from the court, a petition, warrant, or both may be issued for the apprehension of the person or of the child, or both.

(4) The peace officer may, in lieu of following the procedure set forth in subsection (3) of this section, take a child to a court approved center offering voluntary services to children and release the child without formal charges being filed, provided that the offense the child has allegedly committed under the provisions of KRS 208.020(1) (a), (b) or (c):

(a) is not a felony offense; and

(b) the peace officer has received the permission of the parent or other responsible adult; and

(c) has followed guidelines which the court has established for such release.

(5) [(4)] If the child is not released as provided in subsection (3) *or (4)* of this section, the child shall be taken without delay to the court or to the detention facility provided for under KRS 208.130. If taken to the detention facility, the officer shall as soon as possible thereafter make a written report to the court, stating the fact of such detention, the offense charged, and the reason why the child was not released to the parent or other responsible adult. Pending further disposition of the case, the court may release the child to the custody of the parent or other responsible person or may continue to hold the child in detention. When a child is detained in any way or for any reason, there shall be a hearing held within forty-eight (48) hours, exclusive of

Sunday, of the commencement of detention to determine whether or not there is reasonable cause to believe that an offense has been committed and that the detained child committed the offense. The commonwealth shall bear the burden of proof, and if it shall fail to establish such reasonable cause, the child shall be released and the complaint dismissed. If such reasonable cause is established, the court shall then determine whether or not the circumstances surrounding the child are such as to endanger its safety or welfare or that of the community. The commonwealth shall bear the burden of proof and it shall be by a preponderance of the evidence. Upon such showing of proof and order of the court, the child shall be detained until such time as the court may withdraw the order for detention or make a speedy disposition in the child's best interest. Unless such a hearing is held and the necessity for detention properly established, the child shall be released to the custody of its parent or other responsible person pending further disposition of the case. A child shall have a right to counsel at any hearing determining its right to freedom pending the disposition of its case, and its parents or other responsible person shall have a right to attend the hearing if such attendance will not unnecessarily delay the hearing. Any person aggrieved by a proceeding under this subsection may proceed by habeas corpus to the circuit court.

(6)[(5)] Whether the child is released before or after a hearing, or is detained as the result of such a hearing, the child and his parents, relative, guardian, or custodian shall be given written notice of the time and place of the adjudicative hearing concerning the child and an account of the specific charges against the child, including the specific statute alleged to have been violated. Such notice shall be given at least forty-eight (48) hours prior to the initial hearing on the case.

HB 271, AN ACT relating to the protection of the environment.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 224 is created to read as follows:

(1) The attorney general, any political subdivision of the state, any instrumentality or agency of the state or of a political subdivision thereof, any person, partnership, corporation, association, organization or other legal entity may maintain an action in the circuit court having jurisdiction where the alleged violation occurred or is likely to occur for declaratory and equitable relief against the state, any political subdivision thereof, any instrumentality or agency of the state or of a political subdivision thereof, any person, partnership, corporation, association, organization or other legal entity for the protection of the air, water and other natural resources and the public trust therein from pollution, impairment or destruction.

(2) In granting relief provided by subsection (1) where there is involved a standard for pollution or for an anti-pollution device or procedure, fixed by rule or otherwise, by an instrumentality or agency of the state or a political subdivision thereof, the court may:

(a) Determine the validity, applicability and reasonableness of the standard.

(b) When a court finds a standard to be deficient, direct the adoption of a standard approved and specified by the court.

Section 2. A new section of KRS Chapter 224 is created to read as follows:

If the court has reasonable ground to doubt the solvency of the plaintiff or the plaintiff's ability to pay any cost or judgment which might be rendered against him in an action brought under this Act the court may order the plaintiff to post a surety bond or cash not to exceed $500.00.

Section 3. A new section of KRS Chapter 224 is created to read as follows:

(1) When the plaintiff in the action has made a prima facie showing that the conduct of the defendant has, or is likely to pollute, impair or destroy the air, water or other natural resources or the public trust therein, the defendant may rebut the prima facie showing by the submission of evidence to the contrary. The defendant may also show, by way of an affirmative defense, that there is no feasible and prudent alternative to defendant's conduct and that such conduct is consistent with the promotion of the public health, safety and welfare in light of the state's paramount concern for the protection of its natural resources from pollution, impairment, or destruction. Except as to the affirmative defense, the principles of burden of proof and weight of the evidence generally applicable in civil actions in the circuit courts shall apply to actions brought under this Act.

(2) The court may appoint a master or referee, who shall be a disinterested person and technically qualified, to take testimony and make a record and a report of his findings to the court in the action.

(3) Costs may be apportioned to the parties if the interests of justice require.

Section 4. A new section of KRS Chapter 224 is created to read as follows:

(1) The court may grant temporary and permanent equitable relief, or may impose conditions on the defendant that are required to protect the air, water and other natural resources or the public trust therein from pollution, impairment or destruction.

(2) If administrative, licensing or other proceedings are required or available to determine the legality of the defendant's conduct, the court may remit the parties to such proceedings. In so remitting the court may grant temporary equitable relief where necessary for the protection of the air, water and other natural resources or the public trust therein from pollution, impairment or destruction. In so remitting the court shall retain jurisdiction of the action pending completion thereof for the purpose of determining whether adequate protection from pollution, impairment or destruction has been afforded.

(3) Upon completion of such proceedings, the court shall adjudicate the impact of the defendant's conduct on the air, water or other natural resources and on the public trust therein in accordance with this Act. In such adjudication the court may order that additional evidence be taken to the extent necessary to protect the rights recognized in this Act.

(4) Where, as to any administrative, licensing or other proceeding, judicial review thereof is available, the court originally taking jurisdiction shall maintain jurisdiction for purposes of judicial review.

Section 5. A new section of KRS Chapter 224 is created to read as follows:

(1) Whenever administrative, licensing or other proceedings, and judicial review thereof are available by law, the agency or the court may permit the attorney general, any political subdivision of the state, any instrumentality or agency of the state or of a political subdivision thereof, any person, partnership, corporation, association, organization or other legal entity to intervene as a party on the filing of a pleading asserting that the proceeding or action for judicial review involves conduct which has, or which is likely to have, the effect of polluting, impairing or destroying the air, water or other natural resources or the public trust therein.

(2) In any such administrative, licensing or other proceedings, and in any judicial review thereof, any alleged pollution, impairment or destruction of the air, water or other natural resources or the public trust therein, shall be determined, and no conduct shall be authorized or approved which does, or is likely to have such effect so long as there is a feasible and prudent alternative consistent with the reasonable requirements of the public health, safety and welfare.

(3) The doctrine of collateral estoppel and res judicata may be applied by the court to prevent multiplicity of suits.

The Committee Amendment to **HB 271** is as follows:

Amend printed copy of House Bill 271 on page 1, line 3, by inserting after the word "general" "*of this state*";

and on page 1, line 5, by deleting the word "person" and inserting in lieu thereof the phrase "*citizens of this state, or*";

and on page 1, line 7, by inserting after the word "entity", the following phrase "*organized and existing under the laws of the State of Kentucky*";

and on page 1, line 16, by inserting after "destruction.", the following: "*When any action is commenced pursuant to this Act, notice of such action must be filed with the Attorney General of this state.*";

and on page 1, line 18, by adding after the word "pollution", the word "*control*";

and on page 2, line 2, by inserting after the word "validity," the word "*and*" and by deleting on line 2 the last word "*and*" and the first word on line 3 "*reasonableness*";

and on page 2, by deleting lines 4, 5 and 6 and inserting in lieu thereof the following: "*(b) Hear the evidence and make findings of fact and conclusions of law as to whether the action or proposed action of the defendant complies with the applicable standards. (c) Grant any appropriate relief, including any remedy specified in the statute pursuant to which the standard was adopted.*";

and on page 3, line 23, by changing the word "may" to "*shall*";

and on page 4, line 4, by deleting the rest of line 4 beginning with the word "determining" and deleting all of lines 5 and 6 and inserting in lieu thereof: "*judicial review.*";

and on page 4, beginning with the last word on line 10, by deleting said word and deleting all of lines 11, 12 and 13.

The Committee on Public Utilities and Transportation reported **HB 205** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 205, AN ACT relating to eavesdropping.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 526.070 is amended to read as follows:

A person is not guilty under this chapter when he:

(1) Inadvertently overhears the communication through a regularly installed telephone party line or on a telephone extension but does not divulge it; or

(2) Is an employe of a communications common carrier who, while acting in the course of his employment, *intercepts, discloses or uses a communication transmitted through the facilities of his employer for a purpose which is a necessary incident to the rendition of the service or to the protection of the rights or the property of the carrier of such communication, provided however that communications common carriers shall not utilize service observing or random monitoring except for mechanical or service quality control checks* [hears a communication transmitted through the facilities of his employer but does not divulge it].

The Committee on Judiciary-Courts reported **HB 438**, with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 438, AN ACT relating to election of judges.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. KRS CHAPTER 118A IS ESTABLISHED AND A NEW SECTION THEREOF CREATED TO READ AS FOLLOWS:

(1) As used in this chapter, the word "election" refers only to elections for offices of the Court of Justice.

(2) No provisions of KRS Chapter 118 existing on the effective date of this Act except KRS 118.015 through KRS 118.045, KRS 118.780 and KRS 118.790 shall apply to such elections. All other provisions of the election laws not inconsistent with this Act shall be applicable thereto.

SECTION 2. A NEW SECTION OF KRS CHAPTER 118A IS CREATED TO READ AS FOLLOWS:

Justices of the Supreme Court shall be elected from the Supreme Court districts established by KRS Chapter 21A.

SECTION 3. A NEW SECTION OF KRS CHAPTER 118A IS CREATED TO READ AS FOLLOWS:

(1) Judges of the Court of Appeals shall be elected from the same districts as are justices of the Supreme Court.

(2) In each Court of Appeals district there shall be, for election purposes, numbered divisions corresponding to the number of Court of Appeals judges in the district. Each judge shall be elected at large from the entire district.

(3) Each numbered division of a district shall be voted upon and shall be tallied separately.

SECTION 4. A NEW SECTION OF KRS CHAPTER 118A IS CREATED TO READ AS FOLLOWS:

(1) Circuit judges shall be elected from the judicial circuits established in KRS Chapter 23.

(2) In judicial circuits having two (2) or more judges there shall be, for election purposes, numbered divisions corresponding to the number of circuit judges in the circuit. Each judge shall be elected at large from the entire circuit.

(3) Each numbered division of a circuit shall be voted upon and shall be tallied separately.

SECTION 5. A NEW SECTION OF KRS CHAPTER 118A IS CREATED TO READ AS FOLLOWS:

(1) District judges shall be elected from judicial districts.

(2) In judicial districts having two (2) or more judges there shall be, for election purposes, numbered divisions corresponding to the number of district judges in the district. Each judge shall be elected at large from the entire district.

(3) Each numbered division of a district shall be voted upon and shall be tallied separately.

SECTION 6. A NEW SECTION OF KRS CHAPTER 118A IS CREATED TO READ AS FOLLOWS:

(1) Except as provided in Sections 10 and 11 of this Act, no person shall be elected to an office of the Court of Justice without first having been nominated as provided in this Section.

(2) Each candidate for nomination shall file a petition for nomination with the secretary of state not less than fifty-five (55) days before the day fixed by law for holding the primary election.

(3) The petition for nomination shall state the name and residence of the candidate and shall describe, by district or circuit, and by numbered division thereof if divisions exist, the office for which he seeks nomination. It shall be signed by him and by not less than two (2) registered voters from the district or circuit from which he seeks nomination. The petition shall be in the form prescribed by the state board of elections.

(4) The order of names on the ballot for each district or circuit, and numbered division thereof if divisions exist, shall be determined by lot at a public drawing to be held in the office of the secretary of state at 2:00 p.m., standard time, fifty-three (53) days before the primary election.

(5) Not less than forty-five (45) days before the primary election, and after the order of names on the ballot has been determined as required in subsection (4), the secretary of state shall:

(a) Certify to the county clerks of the respective counties entitled to participate in the election of the various candidates, the name and place of residence of each candidate for each office, by district or circuit, and numbered division thereof if divisions exist, as specified in the petitions for nomination filed with him; and

(b) Designate for the county clerks the office of the Court of Justice under which the names of candidates shall be printed and the order in which they are to appear on the ballot.

(6) The county clerks of each county shall cause to be printed on the ballot labels for the voting machines and on the special ballots for the primary the names of the candidates for offices in the Court of Justice. Special ballots for judicial offices shall not include the names of candidates for non-judicial offices.

(7) The names of the candidates shall be placed on the voting machine in a separate column or line headed or preceded by the words "Judicial Ballot." Above the names of candidates for nomination shall be printed the words "Vote for one," or "Vote for one in each division," as appropriate. The office, numbered division thereof if divisions exist, and the candidates therefor shall be clearly labelled. No party designation or emblem of any kind, nor any sign indicating any candidate's political belief or party affiliation, shall be used on voting machines or special ballots.

(8) The two (2) candidates receiving the highest number of votes for nomination for justice or judge of a district or circuit, or numbered division thereof if divisions exist, shall be nominated. Certificates of nomination shall be issued as provided in Section 19 of this Act.

(9) If it appears after expiration of the time for filing petitions for nomination that there are not more than two (2) candidates who have filed the necessary petitions for a place on the ballot in the regular election, the secretary of state shall immediately issue and file in his office certificates of nomination, and send copies to the candidates.

SECTION 7. A NEW SECTION OF KRS CHAPTER 118A IS CREATED TO READ AS FOLLOWS:

In a primary election for an office of the Court of Justice, all registered voters, regardless of party affiliation or lack thereof, shall be allowed to vote for candidates for nomination to the office of justice or judge.

SECTION 8. A NEW SECTION OF KRS CHAPTER 118A IS CREATED TO READ AS FOLLOWS:

No person who was a candidate for nomination for any office of the Court of Justice in a primary election and who, before the succeeding regular election, is declared by the final judgment of any court of competent jurisdiction to have violated, in the primary election, any provision of KRS Chapter 121, or to be responsible for such violation by others, shall have his name placed on the ballot for any office to be voted for in the succeeding regular election. However, if such judgment is subsequently reversed prior to the time of printing of the ballots, the candidate's name shall be restored on the ballot.

SECTION 9. A NEW SECTION OF KRS CHAPTER 118A IS CREATED TO READ AS FOLLOWS:

(1) For the regular election, the order of names on the ballot for each district or circuit, and numbered division thereof if divisions exist, shall be determined by lot at a public drawing to be held in the office of the secretary of state at 2:00 p.m., standard time, fifty-three (53) days before the regular election.

(2) Not less than forty-five (45) days before the regular election, and after the order of names on the ballot has been determined as required in subsection (1), the secretary of state shall:

(a) Certify to the county clerks of the respective counties entitled to participate in the election of the various candidates, the name and place of residence of each candidate for each office, by district or circuit, and numbered division thereof if divisions exist, as certified under Section 6 of this Act; and

(b) Designate for the county clerks the office of the Court of Justice under which the names of candidates shall be printed and the order in which they are to appear on the ballot.

(3) The county clerks of each county shall cause to be printed on the ballot labels for the voting machines and on the special ballots for the regular elections the names of the candidates for offices of the Court of Justice. Special ballots for judicial offices shall not include the names of candidates for non-judicial offices.

(4) The names of the candidates shall be placed on the voting machine in a separate column or line headed or preceded by the words "Judicial Ballot," and in such a manner that the casting of a vote for all of the candidates of a political party will not operate to cast a vote for judicial candidates. Above the names of the candidates shall be printed the words "Vote for one" or "Vote for one in each division," as appropriate. The office, numbered division thereof if divisions exist, and the candidates therefor shall be clearly labelled. No party designation or emblem of any kind, nor any sign indicating any candidate's political belief or party affiliation, shall be used on voting machines or special ballots.

(5) The candidate receiving the highest number of votes cast at the regular election for a district or circuit, or for a numbered division thereof if divisions exist, shall be elected.

SECTION 10. A NEW SECTION OF KRS CHAPTER 118A IS CREATED TO READ AS FOLLOWS:

(1) Candidates for an unexpired term of a judicial office to be filled at a regular election shall be nominated at the primary next preceding the regular election in the manner prescribed in Section 6 of this Act if the vacancy occurs not less than seventy (70) days before the primary. If the vacancy occurs on or after the seventieth day before the primary, the election to fill the unexpired term shall be held in accordance with the procedures described in this Section and Section 152 of the Constitution of Kentucky.

(2) Each candidate shall file a petition for candidacy with the secretary of state at least fifty-five (55) days before the day fixed by law for holding the regular election.

(3) The petition for candidacy shall state the name and residence of the candidate and shall describe by district or circuit, and numbered division thereof if divisions exist, the judicial office for which he seeks election. It shall be signed by him and not less than two (2) registered voters from the district or circuit from which he seeks candidacy. The petition shall be in the form prescribed by the state board of elections.

(4) The order of names on the ballot for each district or circuit, and numbered division thereof if divisions exist, shall be determined by lot at a public drawing to be held in the office of the secretary of state at 2:00 p.m., standard time, fifty-three (53) days before the regular election.

(5) Not less than forty-five (45) days before the regular election, and after the order of names on the ballot has been determined as required in subsection (4), the secretary of state shall:

(a) Certify to the county clerks of the respective counties entitled to participate in the election of the various candidates, the name and place of residence of each candidate for each office, by district or circuit, and numbered division thereof if divisions exist, as specified in the petitions for candidacy filed with him; and

(b) Designate for the county clerks the office of the Court of Justice under which the names of candidates shall be printed and the order in which they are to appear on the ballot.

(6) The county clerks of each county shall cause to be printed on the ballot labels for the voting machines and on the special ballots for the regular election the names of the candidates for offices of the Court of Justice. Special ballots for judicial offices shall not include the names of candidates for non-judicial offices.

(7) The names of the candidates shall be placed on the voting machine in a separate column or line headed or preceded by the words "Judicial Ballot," and in such a manner that the casting of a vote for all of the candidates of a political party will not operate to cast a vote for judicial candidates. Above the names of the candidates shall be printed the words "Vote for one" or "Vote for one in each division," as appropriate. The office, numbered division thereof if divisions exist, and the candidates therefor shall be clearly labelled. No party designation or emblem of any kind, nor any sign indicating any candidate's political belief or party affiliation, shall be used on voting machines or special ballots.

(8) The candidate receiving the highest number of votes cast at the regular election for a district or circuit, or for a numbered division thereof if divisions exist, shall be elected.

SECTION 11. A NEW SECTION OF KRS CHAPTER 118A IS CREATED TO READ AS FOLLOWS:

The initial election of judges to the Court of Appeals shall be conducted in the regular election of 1976 without a primary election and in the manner prescribed in subsections (2) through (8) of Section 10 of this Act.

SECTION 12. A NEW SECTION OF KRS CHAPTER 118A IS CREATED TO READ AS FOLLOWS:
The county clerk of each county shall publish, pursuant to KRS Chapter 424, and shall post at the courthouse, by district or circuit, and numbered division thereof if divisions exist, the names of all persons certified to him by the secretary of state as candidates for judicial office. The names shall be published in the order in which they are to appear on the voting machines. The county shall pay the cost of printing.

SECTION 13. A NEW SECTION OF KRS CHAPTER 118A IS CREATED TO READ AS FOLLOWS:
No judicial candidate's name shall appear on any voting machine or special ballot more than once.

SECTION 14. A NEW SECTION OF KRS CHAPTER 118A IS CREATED TO READ AS FOLLOWS:
(1) The secretary of state shall keep a book entitled "Register of Candidates for Nomination to Offices of the Court of Justice," and shall enter in that book the name and place of residence of each candidate for nomination to the office of justice or judge in the primary election and the date of receipt of his nomination papers. The book shall be a public record.
(2) Petitions for candidacy filed pursuant to Sections 10 and 11 of this Act shall also be entered in this book.

SECTION 15. A NEW SECTION OF KRS CHAPTER 118A IS CREATED TO READ AS FOLLOWS:
(1) In certification of candidates for judicial office, no reference shall be made to political affiliation.
(2) The secretary of state shall not knowingly certify to the county clerk of any county the name of any candidate who has not filed the required nomination or candidacy papers, nor knowingly fail to certify the name of any candidate who has filed the required nomination or candidacy papers.
(3) If any candidate withdraws before certification, the secretary of state shall not certify his name.

SECTION 16. A NEW SECTION OF KRS CHAPTER 118A IS CREATED TO READ AS FOLLOWS:
All nomination or candidacy papers filed under this chapter shall during normal business hours be subject to inspection by any person.

SECTION 17. A NEW SECTION OF KRS CHAPTER 118A IS CREATED TO READ AS FOLLOWS:
(1) No county clerk shall knowingly cause to be printed on the ballot labels or special ballots for any election, the name of a candidate for an office of the Court of Justice who has not been certified in the manner specified in this chapter.
(2) If any candidate withdraws before ballot labels or special ballots are printed, the clerk shall not cause his name to be printed thereon.

SECTION 18. A NEW SECTION OF KRS CHAPTER 118A IS CREATED TO READ AS FOLLOWS:
The secretary of state shall preserve in his office all petitions and certificates of nomination or candidacy filed therein, for six (6) months after the election for which the petitions and certificates were filed.

SECTION 19. A NEW SECTION OF KRS CHAPTER 118A IS CREATED TO READ AS FOLLOWS:
(1) The state board of elections shall issue certificates of nomination or election for all primary and regular elections as provided in this Section.
(2) Following a primary or regular election, the board of elections of each county shall make out duplicate certificates of the total number of votes received by each candidate, by circuit or district, and numbered division thereof if divisions exist. The board shall deliver these certificates to the county clerk. The clerk shall keep one (1) of the certificates in his office and, within three (3) days of their receipt from the board, shall forward the other certificate by mail to the secretary of state who shall deliver it to the state board of elections.
(3) When all the returns are received by the state board of elections, the board shall meet to count and tabulate the votes received by the different candidates as certified to the secretary of state. If all returns have not been received by the second Monday after the primary or regular election, the board shall, nevertheless, proceed with its duties at that time. When the board certifies the results of a primary or regular election on the basis of incomplete returns, the right to contest the election shall not be impaired. Any two (2) of the members of the board may act in the absence of the third. The board shall prepare the certificates of nomination or election in the office of the board, from the returns made. The certificates shall be in writing and in duplicate, and shall be signed by the board members. The board shall forward the original certificate, by mail, to the elected candidate, unless he has failed to comply with KRS Chapter 121. The duplicate shall be retained in the office of the board.
(4) The state board of elections, immediately after the comparison of the returns, shall publish pursuant to KRS Chapter 424 a statement of the votes given in every county for each candidate.

(5) Certificates of nomination for a judicial office shall be issued to the two (2) candidates receiving the highest number of votes, except that if more than two (2) candidates are found to have received the highest and an equal number of votes for the same office or if two (2) or more candidates are found to have received the second highest and an equal number of votes for the same office, the election shall be determined by lot in such manner as the board directs, in the presence of not less than three (3) other persons.

(6) The certificate of election for a judicial office shall be issued to the candidate receiving the highest number of votes, except that if two (2) or more candidates are found to have received the highest and an equal number of votes for the same office, the election shall be determined by lot in such manner as the board directs, in the presence of not less than three (3) other persons.

Section 20. KRS 116.055 is amended to read as follows:

(1) Before a person shall be qualified to vote in a primary election, he must possess all the qualifications required of voters in a regular election. In addition, he must be a registered member of the party in whose primary election he seeks to vote, and must have been registered as a member of that party at the time of the preceding regular election, or, in the case of new registrations not involving a change of political affiliation made after the preceding regular election, have registered and remained registered as a member of that party. No person shall be allowed to vote for any party candidates other than that of the party of which he is a registered member. The qualifications shall be determined as of the date of the primary, without regard to the qualifications or disqualifications as they may exist at the succeeding regular election, except that minors who will become eighteen (18) years of age on or before the day of the regular election shall be entitled to vote in the primary if otherwise qualified. However, any registered voter, whether registered as a member of a party or as an independent, shall be qualified to vote in primary elections for candidates listed in nonpartisan races *and offices of the Court of Justice.*

(2) In order to determine a voter's qualifications in case of doubt, one (1) of the judges of election shall swear the person as to any of the qualifications, and when so sworn the clerk shall write upon the voter's registration card the words, "sworn as to qualification."

Section 21. KRS 117.125 is amended to read as follows:

No make of voting machine shall be approved for use unless it is so constructed that:

(1) It will insure secrecy to the voter in the act of voting.

(2) It provides facilities that will permit votes to be cast for any candidate entitled to have his name printed upon the ballots at any regular, special or primary election, and for or against any public question entitled to be placed upon the ballots.

(3) It will, except at primary elections, permit a voter to vote for all the candidates of one (1) party or for one (1) or more candidates of every party having candidates entitled to be voted for, or for one (1) or more independent candidates.

(4) It will permit a voter to vote for as many persons for an office as he is lawfully entitled to vote for, and no more.

(5) It will prevent a voter from voting for the same person, or for or against the same question, more than once.

(6) It will permit a voter to vote for or against any question he may have the right to vote on, but no other.

(7) It may be adjusted for use in primary elections so that a voter may not vote for any person except those seeking nomination as candidates of his party *or as candidates for an office of the Court of Justice.*

(8) It will correctly register and accurately count all votes cast for each person, and for or against each public question.

(9) It can be determined whether the machine has been unlocked and operated after once being locked.

(10) It will show at all times during an election how many persons have voted by a device hereinafter referred to as a public counter.

(11) The counter indicating the number of votes cast for each person and for or against each public question cannot be seen or tampered with without unlocking a covering device that cannot be unlocked by a key that unlocks any other part of the machine. When such counters are so exposed the machine can no longer be placed into condition for operation without the use of a special key, which key shall not have been in the possession of the election officers at the polling places; but if this requirement has the effect of eliminating from consideration any other make of machine such requirement shall not apply.

(12) The operating device and operating mechanism may be locked before the time for opening the polls and after the time for closing the polls.

(13) It is accompanied by a mechanical model illustrating the manner of voting on the machine, suitable for the instruction of voters.

(14) It will permit a voter to vote for all the candidates for presidential electors of any party by one (1) operation.

(15) It will permit a voter to vote, in any regular or special election, for any person desired to be voted for whose name does not appear upon the voting machine.

(16) It bears a number that will distinguish it from any other machine.

(17) The frames in which ballot labels are placed shall be constructed with transparent protective devices, in order that the names thereon cannot be mutilated or altered.

Section 22. KRS 117.315 is amended to read as follows:

(1) The county executive committee of any political party having a ticket to elect at any regular election, may designate not more than two (2) challengers to be present at and witness the holding of the election in each precinct in the county. The challengers shall be entitled to stay in the room or at the door. The challengers shall be registered voters of the county in which the election is held, shall be appointed in writing signed by the chairman of the committee and shall produce written appointments on demand of any election officer.

(2) Any school board candidate, independent candidate, *candidate for an office of the Court of Justice,* or independent ticket at the regular election may designate not more than one (1) challenger to be present at and witness the holding of the elections in each precinct in the county. The challenger shall be entitled to stay in the room or at the door. The challenger shall be a registered voter of the county in which the election is held, shall be appointed in writing by the chairman of the committee, independent candidate or candidates representing a ticket, and shall produce written appointment on demand of any election officer.

(3) Not later than thirty (30) days prior to an election at which constitutional amendments or other public questions are to be submitted to the vote of the people, any committee that in good faith advocates or opposes an amendment or public question may file a petition with the clerk of the county asking that the petitioners be recognized as the committee entitled to nominate inspectors and challengers to serve at the election at which the constitutional amendment or public question is to be voted on. If more than one (1) committee alleging itself to advocate or oppose the same amendment file such a petition, the county board of elections shall decide, and announce by registered mail or by certified mail, return receipt requested to each committee not less than twenty (20) days immediately preceding the election, which committee is entitled to nominate the challengers and inspectors. Such decision shall not be final, but any aggrieved party may institute proceedings in the county court, and upon hearing the county judge shall determine which of such committees shall be recognized as the one to select inspectors and challengers at the election.

(4) The committee shall file the names of the persons nominated by it with the clerk of the county at least five (5) days before the election. The county board of elections shall, within two (2) days thereafter, certify the nominees of the committee for the respective precincts to serve as challengers and inspectors at the election where any constitutional amendment or public question is to be voted upon. If more than one (1) amendment or question is to be voted upon, the county board of elections may designate, on the petition of the committee, one (1) person for each amendment and question to serve as inspector at the election and one (1) person for each amendment and question to serve as challenger at the election.

(5) The challengers and inspectors shall perform their duties in the same manner and be subject to the same privileges as other inspectors and challengers at an election.

(6) Each political party is entitled to have not exceeding two (2) challengers at each precinct during the holding of the primary election. Any group of bona fide candidates, as defined in KRS 118.176, of the same political party equal to twenty-five percent (25%) of all the candidates for that party to be voted for in a county in any primary, including state, district and all other candidates, may recommend to the county committee or governing authority of the party for the county a list of persons whom they desire to have appointed as challengers in each precinct in the county. If more than two (2) such lists are furnished, the committee or governing authority, in making appointments of challengers, shall alternate between the several lists so furnished so as to give to each list an equal amount or proportion of the appointments, but in no event shall there be appointed more than one (1) challenger for any precinct from any one (1) list. The list of challengers shall be presented to the chairman or secretary of the party committee of the county not less than seven (7) days before the date on which the primary is to be held, and the committee or the chairman thereof shall make the appointments and certify to same at least four (4) days before the date on which the primary is held. The appointment of challengers shall be certified in all respects as challengers at regular elections, except as otherwise provided in this section, and the challengers shall be registered voters of the county in which the primary is held, shall be subject to the same penalties and possess the same rights and privileges as challengers at regular elections, except that the challengers of one (1) political party shall not be entitled to challenge persons who offer to vote for candidates of any other party in the primary. The provisions of this section shall be enforceable against the chairman of the political party committees by a mandatory summary proceeding instituted in the circuit court. The order of the court may be reviewed by the Court of Appeals as provided for the granting or dissolving of temporary injunctions.

Section 23. KRS 118.105 is amended to read as follows:

(1) Except as provided in subsections (3) and (4) of this section and in KRS 118.115, every political party shall nominate all of its candidates for elective offices to be voted for at any regular election at a primary election held as provided in this chapter, and the governing authority of any political party shall have no power to nominate any candidate for any elective office or to provide any method of nominating candidates for any elective office other than by primary elections as provided in this chapter.

(2) Any political organization not constituting a political party as defined in KRS 118.015 may make its nominations as provided in KRS 118.325.

(3) If a vacancy occurs in the nomination of an unopposed candidate or in a nomination made by the primary before the ballots are printed for the regular election, the governing authority of the party may provide for filling the vacancy. When such a nomination has been made, the certificate of nomination shall be signed by the chairman and secretary of the governing authority of the party making it, and shall be filed in the same manner as certificates of nomination at a primary election.

(4) This chapter does not apply to candidates for subdistrict school trustees, members of boards of education, members of the legislative bodies of cities of the fifth or sixth class, or presidential electors, nor to candidates for mayor [, police judge] or commissioner in cities of the fourth class operating under the commission form of government and in cities of the second, third or fourth class operating under the city manager form of government.

Section 24. KRS 118.125 is amended to read as follows:

(1) Except as provided in KRS [118.145 and] 118.155, any person who is qualified under the provisions of KRS 116.055 to vote in any primary election for the candidates for nomination by the party at whose hands he seeks the nomination, shall have his name printed on the official ballot of his party for an office to which he is eligible in that primary, upon filing, with the proper officer at the proper time, a notification and declaration.

(2) The notification and declaration shall be in the form prescribed by the state board of elections. The declaration shall be subscribed and sworn to by the person making it, before an officer authorized to administer an oath.

(3) At the time of filing his notification and declaration, the candidate shall file therewith an affidavit of two (2) reputable electors who are members of the party to which the candidate belongs. The affidavit shall be in the form prescribed by the state board of elections.

(4) The notification and declaration and the accompanying affidavits may be on the same or separate sheets, but shall be filed together. When so filed with the proper officer, the officer shall have the candidate's name printed on the ballot according to the provisions of this chapter.

Section 25. KRS 118.155 is amended to read as follows:

(1) The provisions of KRS 118.125 shall not apply to any eligible person serving in the armed forces of the United States while this country is at war. The name of such person shall be printed on the official ballot of his party for an office for which he is eligible in any primary election when an application has been filed on his behalf by two (2) reputable electors of the party at whose hands he seeks the nomination.

(2) Such application shall be accompanied by a statement signed by the proposed candidate authorizing the action of the electors.

(3) The application and the candidate's statement, herein mentioned, shall be filed in good faith and with the proper officer at the proper time, as provided for other candidates in primary elections.

(4) The form of such application shall be similar to that of the affidavits required of electors in behalf of other candidates as provided in KRS 118.125.

(5) Before such a successful candidate is given a certificate of nomination, he shall file with the county clerk of the county in which he resides a statement that during the campaign for the nomination he did not, and while a candidate for the office will not, knowingly violate any election law or any law relating to corrupt and fraudulent practice in campaigns or elections in this state, and if elected will qualify for the office.

[(5) No certificate of nomination shall be given to any such successful candidate serving in the armed forces of the United States until he has caused to be filed with the clerk of the county court, in the county of his legal residence, a statement containing such information as required, in KRS 118.145, of successful candidates for judicial nominations.]

Section 26. KRS 118.335 is amended to read as follows:

If any certificate or petition of nomination made under the provisions of this chapter contains the name of more than one candidate for any office to be filled, neither name shall be printed as a candidate for that office. *If* [Except as provided in KRS 118.145 with respect to candidates for judicial offices, if] any person has been nominated as a candidate for any office by primary election or by party convention, and also by petition, his name shall be placed in the list of candidates nominated by the primary or convention, and the place occupied by his name in the petition shall be left blank, unless the candidate makes written request, prior to the last day for filing evidences of nomination, that his name be printed as nominated by petition and be omitted from the list nominated by the primary or convention.

Section 27. KRS 118.345 is amended to read as follows:

(1) No candidate who has been defeated for the nomination for any office in a primary election [, except a candidate for judge of the Court of Appeals or judge of the circuit court,] shall have his name placed on voting machines in the succeeding regular election as a candidate for the same office for the nomination to which he was a candidate in the primary election, except that if a vacancy occurs in the party nomination for which he was a candidate in the primary election his name may be placed on voting machines for the regular election as a candidate of that party if he has been duly made such party nominee after the vacancy occurs as provided in KRS 118.105.

(2) No person who was a candidate for nomination for any office in a primary election and who, before the succeeding regular election, is declared by the judgment of any court of competent jurisdiction to have violated, in the primary election, any provision of KRS chapter 121, or to be responsible for such violation by others, shall have his name placed on voting machines for any office to be voted for in the succeeding regular election.

Section 28. KRS 118.405 is amended to read as follows:

No candidate's name shall appear on any voting machine or special ballot more than once [except as provided in KRS 118.145].

SECTION 29. A NEW SECTION OF KRS CHAPTER 118A IS CREATED TO READ AS FOLLOWS:

Any person who violates any of the provisions of this chapter or who fails to perform his duties in the manner specified in this chapter shall be guilty of a Class A misdemeanor.

Section 30. KRS 118.145 and KRS 118.395 are repealed.

Section 31. Section 23 of this Act shall become effective January 1, 1978. Whereas the new constitutional provisions relating to courts became effective January 1, 1976, an emergency is declared to exist, and this Act, except for Section 23, shall become effective upon its passage and approval by the Governor.

The Committee Substitute for **HB 438** is as follows:

HB 438, AN ACT relating to election of judges.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. KRS CHAPTER 118A IS ESTABLISHED AND A NEW SECTION THEREOF CREATED TO READ AS FOLLOWS:

(1) As used in this chapter, the word "election" refers only to elections for offices of the Court of Justice.

(2) No provisions of KRS Chapter 118 existing on the effective date of this Act except KRS 118.015 through KRS 118.045, KRS 118.780 and KRS 118.790 shall apply to such elections. All other provisions of the election laws not inconsistent with this Act shall be applicable thereto.

SECTION 2. A NEW SECTION OF KRS CHAPTER 118A IS CREATED TO READ AS FOLLOWS:

Justices of the Supreme Court shall be elected from the Supreme Court districts established by KRS Chapter 21A.

SECTION 3. A NEW SECTION OF KRS CHAPTER 118A IS CREATED TO READ AS FOLLOWS:

(1) Judges of the Court of Appeals shall be elected from the same districts as are justices of the Supreme Court.

(2) In each Court of Appeals district there shall be, for election purposes, numbered divisions corresponding to the number of Court of Appeals judges in the district. Each judge shall be elected at large from the entire district.

(3) Each numbered division of a district shall be voted upon and shall be tallied separately.

SECTION 4. A NEW SECTION OF KRS CHAPTER 118A IS CREATED TO READ AS FOLLOWS:

(1) Circuit judges shall be elected from the judicial circuits established in KRS Chapter 23.

(2) In judicial circuits having two (2) or more judges there shall be, for election purposes, numbered divisions corresponding to the number of circuit judges in the circuit. Each judge shall be elected at large from the entire circuit.

(3) Each numbered division of a circuit shall be voted upon and shall be tallied separately.

SECTION 5. A NEW SECTION OF KRS CHAPTER 118A IS CREATED TO READ AS FOLLOWS:

(1) District judges shall be elected from judicial districts.

(2) In judicial districts having two (2) or more judges there shall be, for election purposes, numbered divisions corresponding to the number of district judges in the district. Each judge shall be elected at large from the entire district.

(3) Each numbered division of a district shall be voted upon and shall be tallied separately.

SECTION 6. A NEW SECTION OF KRS CHAPTER 118A IS CREATED TO READ AS FOLLOWS:

(1) Except as provided in Sections 10 and 11 of this Act, no person's name shall appear on a ballot label or special ballot for an office of the Court of Justice without first having been nominated as provided in this Section.

(2) Each candidate for nomination shall file a petition for nomination with the secretary of state not less than fifty-five (55) days before the day fixed by law for holding the primary election.

(3) The petition for nomination shall state the name and residence of the candidate and shall describe, by district or circuit, and by numbered division thereof if divisions exist, the office for which he seeks nomination. It shall be signed by him and by not less than two (2) registered voters from the district or circuit from which he seeks nomination. The petition shall be in the form prescribed by the state board of elections.

(4) The order of names on the ballot for each district or circuit, and numbered division thereof if divisions exist, shall be determined by lot at a public drawing to be held in the office of the secretary of state at 2:00 p.m., standard time, fifty-three (53) days before the primary election.

(5) Not less than forty-five (45) days before the primary election, and after the order of names on the ballot has been determined as required in subsection (4), the secretary of state shall:

(a) Certify to the county clerks of the respective counties entitled to participate in the election of the various candidates, the name and place of residence of each candidate for each office, by district or circuit, and numbered division thereof if divisions exist, as specified in the petitions for nomination filed with him; and

(b) Designate for the county clerks the office of the Court of Justice under which the names of candidates shall be printed and the order in which they are to appear on the ballot.

(6) The county clerks of each county shall cause to be printed on the ballot labels for the voting machines and on the special ballots for the primary the names of the candidates for offices in the Court of Justice. Special ballots for judicial offices shall not include the names of candidates for non-judicial offices.

(7) The names of the candidates shall be placed on the voting machine in a separate column or line headed or preceded by the words "Judicial Ballot." Above the names of candidates for nomination shall be printed the words "Vote for one," or "Vote for one in each division," as appropriate. The office, numbered division thereof if divisions exist, and the candidates therefor shall be clearly labelled. No party designation or emblem of any kind, nor any sign indicating any candidate's political belief or party affiliation, shall be used on voting machines or special ballots.

(8) The two (2) candidates receiving the highest number of votes for nomination for justice or judge of a district or circuit, or numbered division thereof if divisions exist, shall be nominated. Certificates of nomination shall be issued as provided in Section 19 of this Act.

(9) If it appears after expiration of the time for filing petitions for nomination that there are not more than two (2) candidates who have filed the necessary petitions for a place on the ballot in the regular election, the secretary of state shall immediately issue and file in his office certificates of nomination, and send copies to the candidates.

SECTION 7. A NEW SECTION OF KRS CHAPTER 118A IS CREATED TO READ AS FOLLOWS:

In a primary election for an office of the Court of Justice, all registered voters, regardless of party affiliation or lack thereof, shall be allowed to vote for candidates for nomination to the office of justice or judge.

SECTION 8. A NEW SECTION OF KRS CHAPTER 118A IS CREATED TO READ AS FOLLOWS:

No person who was a candidate for nomination for any office of the Court of Justice in a primary election and who, before the succeeding regular election, is declared by the final judgment of any court of competent jurisdiction to have violated, in the primary election, any provision of KRS Chapter 121, or to be responsible for such violation by others, shall have his name placed on the ballot for any office to be voted for in the succeeding regular election. However, if such judgment is subsequently reversed prior to the time of printing of the ballots, the candidate's name shall be restored on the ballot.

SECTION 9. A NEW SECTION OF KRS CHAPTER 118A IS CREATED TO READ AS FOLLOWS:

(1) For the regular election, the order of names on the ballot for each district or circuit, and numbered division thereof if divisions exist, shall be determined by lot at a public drawing to be held in the office of the secretary of state at 2:00 p.m., standard time, fifty-three (53) days before the regular election.

(2) Not less than forty-five (45) days before the regular election, and after the order of names on the ballot has been determined as required in subsection (1), the secretary of state shall:

(a) Certify to the county clerks of the respective counties entitled to participate in the election of the various candidates, the name and place of residence of each candidate for each office, by district or circuit, and numbered division thereof if divisions exist, as certified under Section 6 of this Act; and

(b) Designate for the county clerks the office of the Court of Justice under which the names of candidates shall be printed and the order in which they are to appear on the ballot.

(3) The county clerks of each county shall cause to be printed on the ballot labels for the voting machines and on the special ballots for the regular elections the names of the candidates for offices of the Court of Justice. Special ballots for judicial offices shall not include the names of candidates for non-judicial offices.

(4) The names of the candidates shall be placed on the voting machine in a separate column or line headed or preceded by the words "Judicial Ballot," and in such a manner that the casting of a vote for all of the candidates of a political party will not operate to cast a vote for judicial candidates. Above the names of the candidates shall be printed the words "Vote for one" or "Vote for one in each division," as appropriate. The office, numbered division thereof if divisions exist, and the candidates therefor shall be clearly labelled. No party designation or emblem of any kind, nor any sign indicating any candidate's political belief or party affiliation, shall be used on voting machines or special ballots.

(5) The candidate receiving the highest number of votes cast at the regular election for a district or circuit, or for a numbered division thereof if divisions exist, shall be elected.

SECTION 10. A NEW SECTION OF KRS CHAPTER 118A IS CREATED TO READ AS FOLLOWS:

(1) Candidates for an unexpired term of a judicial office to be filled at a regular election shall be nominated at the primary next preceding the regular election in the manner prescribed in Section 6 of this Act if the vacancy occurs not less than seventy (70) days before the primary. If the vacancy occurs on or after the seventieth day before the primary, the election to fill the unexpired term shall be held in accordance with the procedures described in this Section and Section 152 of the Constitution of Kentucky.

(2) Each candidate shall file a petition for candidacy with the secretary of state at least fifty-five (55) days before the day fixed by law for holding the regular election.

(3) The petition for candidacy shall state the name and residence of the candidate and shall describe by district or circuit, and numbered division thereof if divisions exist, the judicial office for which he seeks election. It shall be signed by him and not less than two (2) registered voters from the district or circuit from which he seeks candidacy. The petition shall be in the form prescribed by the state board of elections.

(4) The order of names on the ballot for each district or circuit, and numbered division thereof if divisions exist, shall be determined by lot at a public drawing to be held in the office of the secretary of state at 2:00 p.m., standard time, fifty-three (53) days before the regular election.

(5) Not less than forty-five (45) days before the regular election, and after the order of names on the ballot has been determined as required in subsection (4), the secretary of state shall:

(a) Certify to the county clerks of the respective counties entitled to participate in the election of the various candidates, the name and place of residence of each candidate for each office, by district or circuit, and numbered division thereof if divisions exist, as specified in the petitions for candidacy filed with him; and

(b) Designate for the county clerks the office of the Court of Justice under which the names of candidates shall be printed and the order in which they are to appear on the ballot.

(6) The county clerks of each county shall cause to be printed on the ballot labels for the voting machines and on the special ballots for the regular election the names of the candidates for offices of the Court of Justice. Special ballots for judicial offices shall not include the names of candidates for non-judicial offices.

(7) The names of the candidates shall be placed on the voting machine in a separate column or line headed or preceded by the words "Judicial Ballot," and in such a manner that the casting of a vote for all of the candidates of a political party will not operate to cast a vote for judicial candidates. Above the names of the candidates shall be printed the words "Vote for one" or "Vote for one in each division," as appropriate. The office, numbered division thereof if divisions exist, and the candidates therefor shall be clearly labelled. No party designation or emblem of any kind, nor any sign indicating any candidate's political belief or party affiliation, shall be used on voting machines or special ballots.

(8) The candidate receiving the highest number of votes cast at the regular election for a district or circuit, or for a numbered division thereof if divisions exist, shall be elected.

SECTION 11. A NEW SECTION OF KRS CHAPTER 118A IS CREATED TO READ AS FOLLOWS:
The initial election of judges to the Court of Appeals shall be conducted in the regular election of 1976 without a primary election and in the manner prescribed in subsections (2) through (8) of Section 10 of this Act.

SECTION 12. A NEW SECTION OF KRS CHAPTER 118A IS CREATED TO READ AS FOLLOWS:
The county clerk of each county shall publish, pursuant to KRS Chapter 424, and shall post at the courthouse, by district or circuit, and numbered division thereof if divisions exist, the names of all persons certified to him by the secretary of state as candidates for judicial office. The names shall be published in the order in which they are to appear on the voting machines. The county shall pay the cost of printing.

SECTION 13. A NEW SECTION OF KRS CHAPTER 118A IS CREATED TO READ AS FOLLOWS:
No judicial candidate's name shall appear on any voting machine or special ballot more than once.

SECTION 14. A NEW SECTION OF KRS CHAPTER 118A IS CREATED TO READ AS FOLLOWS:
(1) The secretary of state shall keep a book entitled "Register of Candidates for Nomination to Offices of the Court of Justice," and shall enter in that book the name and place of residence of each candidate for nomination to the office of justice or judge in the primary election and the date of receipt of his nomination papers. The book shall be a public record.
(2) Petitions for candidacy filed pursuant to Sections 10 and 11 of this Act shall also be entered in this book.

SECTION 15. A NEW SECTION OF KRS CHAPTER 118A IS CREATED TO READ AS FOLLOWS:
(1) In certification of candidates for judicial office, no reference shall be made to political affiliation.
(2) The secretary of state shall not knowingly certify to the county clerk of any county the name of any candidate who has not filed the required nomination or candidacy papers, nor knowingly fail to certify the name of any candidate who has filed the required nomination or candidacy papers.
(3) If any candidate withdraws before certification, the secretary of state shall not certify his name.

SECTION 16. A NEW SECTION OF KRS CHAPTER 118A IS CREATED TO READ AS FOLLOWS:
All nomination or candidacy papers filed under this chapter shall during normal business hours be subject to inspection by any person.

SECTION 17. A NEW SECTION OF KRS CHAPTER 118A IS CREATED TO READ AS FOLLOWS:
(1) No county clerk shall knowingly cause to be printed on the ballot labels or special ballots for any election, the name of a candidate for an office of the Court of Justice who has not been certified in the manner specified in this chapter.
(2) If any candidate withdraws before ballot labels or special ballots are printed, the clerk shall not cause his name to be printed thereon.

SECTION 18. A NEW SECTION OF KRS CHAPTER 118A IS CREATED TO READ AS FOLLOWS:
The secretary of state shall preserve in his office all petitions and certificates of nomination or candidacy filed therein, for six (6) months after the election for which the petitions and certificates were filed.

SECTION 19. A NEW SECTION OF KRS CHAPTER 118A IS CREATED TO READ AS FOLLOWS:
(1) The state board of elections shall issue certificates of nomination or election for all primary and regular elections as provided in this Section.
(2) Following a primary or regular election, the board of elections of each county shall make out duplicate certificates of the total number of votes received by each candidate, by circuit or district, and numbered division thereof if divisions exist. The board shall deliver these certificates to the county clerk. The clerk shall keep one (1) of the certificates in his office and, within three (3) days of their receipt from the board, shall forward the other certificate by mail to the secretary of state who shall deliver it to the state board of elections.
(3) When all the returns are received by the state board of elections, the board shall meet to count and tabulate the votes received by the different candidates as certified to the secretary of state. If all returns have not been received by the second Monday after the primary or regular election, the board shall, nevertheless, proceed with its duties at that time. When the board certifies the results of a primary or regular election on the basis of incomplete returns, the right to contest the election shall not be impaired. Any two (2) of the

members of the board may act in the absence of the third. The board shall prepare the certificates of nomination or election in the office of the board, from the returns made. The certificates shall be in writing and in duplicate, and shall be signed by the board members. The board shall forward the original certificate, by mail, to the elected candidate, unless he has failed to comply with KRS Chapter 121. The duplicate shall be retained in the office of the board.

(4) The state board of elections, immediately after the comparison of the returns, shall publish pursuant to KRS Chapter 424 a statement of the votes given in every county for each candidate.

(5) Certificates of nomination for a judicial office shall be issued to the two (2) candidates receiving the highest number of votes, except that if more than two (2) candidates are found to have received the highest and an equal number of votes for the same office or if two (2) or more candidates are found to have received the second highest and an equal number of votes for the same office, the election shall be determined by lot in such manner as the board directs, in the presence of not less than three (3) other persons.

(6) The certificate of election for a judicial office shall be issued to the candidate receiving the highest number of votes, except that if two (2) or more candidates are found to have received the highest and an equal number of votes for the same office, the election shall be determined by lot in such manner as the board directs, in the presence of not less than three (3) other persons.

Section 20. KRS 116.055 is amended to read as follows:

(1) Before a person shall be qualified to vote in a primary election, he must possess all the qualifications required of voters in a regular election. In addition, he must be a registered member of the party in whose primary election he seeks to vote, and must have been registered as a member of that party at the time of the preceding regular election, or, in the case of new registrations not involving a change of political affiliation made after the preceding regular election, have registered and remained registered as a member of that party. No person shall be allowed to vote for any party candidates other than that of the party of which he is a registered member. The qualifications shall be determined as of the date of the primary, without regard to the qualifications or disqualifications as they may exist at the succeeding regular election, except that minors who will become eighteen (18) years of age on or before the day of the regular election shall be entitled to vote in the primary if otherwise qualified. However, any registered voter, whether registered as a member of a party or as an independent, shall be qualified to vote in primary elections for candidates listed in nonpartisan races *and offices of the Court of Justice.*

(2) In order to determine a voter's qualifications in case of doubt, one (1) of the judges of election shall swear the person as to any of the qualifications, and when so sworn the clerk shall write upon the voter's registration card the words, "sworn as to qualification."

Section 21. KRS 117.125 is amended to read as follows:

No make of voting machine shall be approved for use unless it is so constructed that:

(1) It will insure secrecy to the voter in the act of voting.

(2) It provides facilities that will permit votes to be cast for any candidate entitled to have his name printed upon the ballots at any regular, special or primary election, and for or against any public question entitled to be placed upon the ballots.

(3) It will, except at primary elections, permit a voter to vote for all the candidates of one (1) party or for one (1) or more candidates of every party having candidates entitled to be voted for, or for one (1) or more independent candidates.

(4) It will permit a voter to vote for as many persons for an office as he is lawfully entitled to vote for, and no more.

(5) It will prevent a voter from voting for the same person, or for or against the same question, more than once.

(6) It will permit a voter to vote for or against any question he may have the right to vote on, but no other.

(7) It may be adjusted for use in primary elections so that a voter may not vote for any person except those seeking nomination as candidates of his party *or as candidates for an office of the Court of Justice.*

(8) It will correctly register and accurately count all votes cast for each person, and for or against each public question.

(9) It can be determined whether the machine has been unlocked and operated after once being locked.

(10) It will show at all times during an election how many persons have voted by a device hereinafter referred to as a public counter.

(11) The counter indicating the number of votes cast for each person and for or against each public question cannot be seen or tampered with without unlocking a covering device that cannot be unlocked by a key that unlocks any other part of the machine. When such counters are so exposed the machine can no longer be placed into condition for operation without the use of a special key, which key shall not have been in the possession of the election officers at the polling places; but if this requirement has the effect of eliminating from consideration any other make of machine such requirement shall not apply.

(12) The operating device and operating mechanism may be locked before the time for opening the polls and after the time for closing the polls.

(13) It is accompanied by a mechanical model illustrating the manner of voting on the machine, suitable for the instruction of voters.

(14) It will permit a voter to vote for all the candidates for presidential electors of any party by one (1) operation.

(15) It will permit a voter to vote, in any regular or special election, for any person desired to be voted for whose name does not appear upon the voting machine.

(16) It bears a number that will distinguish it from any other machine.

(17) The frames in which ballot labels are placed shall be constructed with transparent protective devices, in order that the names thereon cannot be mutilated or altered.

Section 22. KRS 117.315 is amended to read as follows:

(1) The county executive committee of any political party having a ticket to elect at any regular election, may designate not more than two (2) challengers to be present at and witness the holding of the election in each precinct in the county. The challengers shall be entitled to stay in the room or at the door. The challengers shall be registered voters of the county in which the election is held, shall be appointed in writing signed by the chairman of the committee and shall produce written appointments on demand of any election officer.

(2) Any school board candidate, independent candidate, *candidate for an office of the Court of Justice,* or independent ticket at the regular election may designate not more than one (1) challenger to be present at and witness the holding of the elections in each precinct in the county. The challenger shall be entitled to stay in the room or at the door. The challenger shall be a registered voter of the county in which the election is held, shall be appointed in writing by the chairman of the committee, independent candidate or candidates representing a ticket, and shall produce written appointment on demand of any election officer.

(3) Not later than thirty (30) days prior to an election at which constitutional amendments or other public questions are to be submitted to the vote of the people, any committee that in good faith advocates or opposes an amendment or public question may file a petition with the clerk of the county asking that the petitioners be recognized as the committee entitled to nominate inspectors and challengers to serve at the election at which the constitutional amendment or public question is to be voted on. If more than one (1) committee alleging itself to advocate or oppose the same amendment file such a petition, the county board of elections shall decide, and announce by registered mail or by certified mail, return receipt requested to each committee not less than twenty (20) days immediately preceding the election, which committee is entitled to nominate the challengers and inspectors. Such decision shall not be final, but any aggrieved party may institute proceedings in the county court, and upon hearing the county judge shall determine which of such committees shall be recognized as the one to select inspectors and challengers at the election.

(4) The committee shall file the names of the persons nominated by it with the clerk of the county at least five (5) days before the election. The county board of elections shall, within two (2) days thereafter, certify the nominees of the committee for the respective precincts to serve as challengers and inspectors at the election where any constitutional amendment or public question is to be voted upon. If more than one (1) amendment or question is to be voted upon, the county board of elections may designate, on the petition of the committee, one (1) person for each amendment and question to serve as inspector at the election and one (1) person for each amendment and question to serve as challenger at the election.

(5) The challengers and inspectors shall perform their duties in the same manner and be subject to the same privileges as other inspectors and challengers at an election.

(6) Each political party is entitled to have not exceeding two (2) challengers at each precinct during the holding of the primary election. Any group of bona fide candidates, as defined in KRS 118.176, of the same political party equal to twenty-five percent (25%) of all the candidates for that party to be voted for in a county in any primary, including state, district and all other candidates, may recommend to the county committee or governing authority of the party for the county a list of persons whom they desire to have appointed as challengers in each precinct in the county. If more than two (2) such lists are furnished, the committee or governing authority, in making appointments of challengers, shall alternate between the several lists so furnished so as to give to each list an equal amount or proportion of the appointments, but in no event shall there be appointed more than one (1) challenger for any precinct from any one (1) list. The list of challengers shall be presented to the chairman or secretary of the party committee of the county not less than seven (7) days before the date on which the primary is to be held, and the committee or the chairman thereof shall make the appointments and certify to same at least four (4) days before the date on which the primary is held. The appointment of challengers shall be certified in all respects as challengers at regular elections, except as otherwise provided in this section, and the challengers shall be registered voters of the county in which the primary is held, shall be subject to the same penalties and possess the same rights and privileges as

challengers at regular elections, except that the challengers of one (1) political party shall not be entitled to challenge persons who offer to vote for candidates of any other party in the primary. The provisions of this section shall be enforceable against the chairman of the political party committees by a mandatory summary proceeding instituted in the circuit court. The order of the court may be reviewed by the Court of Appeals as provided for the granting or dissolving of temporary injunctions.

Section 23. KRS 118.105 is amended to read as follows:

(1) Except as provided in subsections (3) and (4) of this section and in KRS 118.115, every political party shall nominate all of its candidates for elective offices to be voted for at any regular election at a primary election held as provided in this chapter, and the governing authority of any political party shall have no power to nominate any candidate for any elective office or to provide any method of nominating candidates for any elective office other than by primary elections as provided in this chapter.

(2) Any political organization not constituting a political party as defined in KRS 118.015 may make its nominations as provided in KRS 118.325.

(3) If a vacancy occurs in the nomination of an unopposed candidate or in a nomination made by the primary before the ballots are printed for the regular election, the governing authority of the party may provide for filling the vacancy. When such a nomination has been made, the certificate of nomination shall be signed by the chairman and secretary of the governing authority of the party making it, and shall be filed in the same manner as certificates of nomination at a primary election.

(4) This chapter does not apply to candidates for subdistrict school trustees, members of boards of education, members of the legislative bodies of cities of the fifth or sixth class, or presidential electors, nor to candidates for mayor [, police judge] or commissioner in cities of the fourth class operating under the commission form of government and in cities of the second, third or fourth class operating under the city manager form of government.

Section 24. KRS 118.125 is amended to read as follows:

(1) Except as provided in KRS [118.145 and] 118.155, any person who is qualified under the provisions of KRS 116.055 to vote in any primary election for the candidates for nomination by the party at whose hands he seeks the nomination, shall have his name printed on the official ballot of his party for an office to which he is eligible in that primary, upon filing, with the proper officer at the proper time, a notification and declaration.

(2) The notification and declaration shall be in the form prescribed by the state board of elections. The declaration shall be subscribed and sworn to by the person making it, before an officer authorized to administer an oath.

(3) At the time of filing his notification and declaration, the candidate shall file therewith an affidavit of two (2) reputable electors who are members of the party to which the candidate belongs. The affidavit shall be in the form prescribed by the state board of elections.

(4) The notification and declaration and the accompanying affidavits may be on the same or separate sheets, but shall be filed together. When so filed with the proper officer, the officer shall have the candidate's name printed on the ballot according to the provisions of this chapter.

Section 25. KRS 118.155 is amended to read as follows:

(1) The provisions of KRS 118.125 shall not apply to any eligible person serving in the armed forces of the United States while this country is at war. The name of such person shall be printed on the official ballot of his party for an office for which he is eligible in any primary election when an application has been filed on his behalf by two (2) reputable electors of the party at whose hands he seeks the nomination.

(2) Such application shall be accompanied by a statement signed by the proposed candidate authorizing the action of the electors.

(3) The application and the candidate's statement, herein mentioned, shall be filed in good faith and with the proper officer at the proper time, as provided for other candidates in primary elections.

(4) The form of such application shall be similar to that of the affidavits required of electors in behalf of other candidates as provided in KRS 118.125.

(5) Before such a successful candidate is given a certificate of nomination, he shall file with the county clerk of the county in which he resides a statement that during the campaign for the nomination he did not, and while a candidate for the office will not, knowingly violate any election law or any law relating to corrupt and fraudulent practice in campaigns or elections in this state, and if elected will qualify for the office.

[(5) No certificate of nomination shall be given to any such successful candidate serving in the armed forces of the United States until he has caused to be filed with the clerk of the county court, in the county of his legal residence, a statement containing such information as required, in KRS 118.145, of successful candidates for judicial nominations.]

Section 26. KRS 118.335 is amended to read as follows:

If any certificate or petition of nomination made under the provisions of this chapter contains the name of more than one candidate for any office to be filled, neither name shall be printed as a candidate for that office. *If* [Except as provided in KRS 118.145 with respect to candidates for judicial offices, if] any person has been nominated as a candidate for any office by primary election or by party convention, and also by petition, his name shall be placed in the list of candidates nominated by the primary or convention, and the place occupied by his name in the petition shall be left blank, unless the candidate makes written request, prior to the last day for filing evidences of nomination, that his name be printed as nominated by petition and be omitted from the list nominated by the primary or convention.

Section 27. KRS 118.345 is amended to read as follows:

(1) No candidate who has been defeated for the nomination for any office in a primary election [, except a candidate for judge of the Court of Appeals or judge of the circuit court,] shall have his name placed on voting machines in the succeeding regular election as a candidate for the same office for the nomination to which he was a candidate in the primary election, except that if a vacancy occurs in the party nomination for which he was a candidate in the primary election his name may be placed on voting machines for the regular election as a candidate of that party if he has been duly made such party nominee after the vacancy occurs as provided in KRS 118.105.

(2) No person who was a candidate for nomination for any office in a primary election and who, before the succeeding regular election, is declared by the judgment of any court of competent jurisdiction to have violated, in the primary election, any provision of KRS chapter 121, or to be responsible for such violation by others, shall have his name placed on voting machines for any office to be voted for in the succeeding regular election.

Section 28. KRS 118.405 is amended to read as follows:

No candidate's name shall appear on any voting machine or special ballot more than once [except as provided in KRS 118.145].

SECTION 29. A NEW SECTION OF KRS CHAPTER 118A IS CREATED TO READ AS FOLLOWS:

Any person who violates any of the provisions of this chapter or who fails to perform his duties in the manner specified in this chapter shall be guilty of a Class A misdemeanor.

Section 30. KRS 118.145 and KRS 118.395 are repealed.

Section 31. Section 23 of this Act shall become effective January 1, 1978. Whereas the new constitutional provisions relating to courts became effective January 1, 1976, an emergency is declared to exist, and this Act, except for Section 23, shall become effective upon its passage and approval by the Governor.

The Committee on Rules reported **HB 5** with Committee Substitute and Committee Amendment to the Committee Substitute attached thereto, **HB 62** with Committee Amendment attached thereto, **HB 218, HB 252, HB 264, HB 270, HB 305, HB 358, HB 365, HB 411, HB 419,** and **HB 434** with Committee Amendment attached thereto, have been posted for passage in Orders of the Day, February 19, 1976.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Cities: **HB 527.**

Counties and Special Districts: **HB 491, HB 399.**

Judiciary-Courts: **HB 261, SB 122.**

The Clerk announced that **HB 223** had been withdrawn from consideration by the Committee on Elections and Constitutional Amendments.

Calendar

HB 408, HB 422, HB 473, HB 353, HB 377, HB 475, HB 70 with Committee Substitute and Committee Amendment to the Committee Substitute attached thereto, **HB 71, HB 73** with Committee Substitute attached thereto, **HB 249** with Committee Substitute attached thereto, **HB 321** with Committee Amendment attached thereto, **HB 430, HJR 36, HB 142, HB 359, HCR 42, SCR 17, HB 30** with Committee Substitute attached thereto, **HB 37** with Committee Substitute attached thereto, and **HB 451** with Committee Amendment attached thereto, taken from the Calendar and ordered read at length for the second time. Representative B. Richardson moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Motions, Petitions and Communications

The following members filed Floor Amendments to Bills:

Representative Guenthner, Floor Amendment No. 1 to **HB 262;**

Representative Mason, Floor Amendment No. 1 to **HB 121;**

Representative Kidd, Floor Amendment No. 1 to **HB 239;**

Representative Deskins, Floor Amendment No. 1 to **HB 278;**

Representative B. Richardson, Floor Amendment No. 2 to **SB 102;**

Representative Hancock, Floor Amendment No. 1 to **HB 192** and Floor Amendment No. 1 to **HB 128.**

Representative Tobin moved that **HJR 7** be recommitted to the Committee on Judiciary-Statutes.

On the roll call the vote was yeas 39-Bendl, Benson, Beshear, Blume, Blythe, Brown, Clarke, Craddock, Cyrus, DeMarcus, Doss, Fitzgerald, Givhan, Hancock, Hopkins, Kenton, Kidd, King, Kleier, LeMaster, Mann, Mason, McBee, McBride, McGill, Muncy, Pearl, Sale, Siemens, Siler, Stephens, Stewart, Tobin, Thomas, J. Turner, R. Turner, White, Wible, Wooden. Nays 57-Ackerson, B. Adams, A. S. Adams, J. Allen, W. Allen, Arnold, Bennett, Bevins, Blair, Blandford, Boatwright, Brinkley, Bruce, Burnette, Carpenter, Cooper, Crupper, Dawahare, DeFalaise, Denham, Deskins, Dietz, Donnermeyer, Dunn, Foster, Freeman, Gray, Guenthner, Hardwick, Head, Holbrook, Holloway, Hughes, Hurst, Imes, Isler, Jone, Lindsay, Little, May, Maynard, Morgan, Morris, Nett, O'Brien, Overstreet, Priddy, Richards, B. Richardson, P. Richardson, Robinson, Romines, Schmidt, Vincent, Wells, Wright, Yates.

The motion that **HJR 7** be recommitted to the Committee on Judiciary-Statutes was rejected.

Representative B. Richardson moved that the rules be suspended for Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Report of Committees

The Committee on Business Organizations and Professions reported **HB 22,** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 22, AN ACT relating to shorthand reporters.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS Chapter 325 is established and a new section thereof is created to read as follows:
As used in this Act unless the context requires otherwise:

(1) "Board" means the Kentucky State Board of Shorthand Reporters.

(2) "Practice of shorthand reporting" means the making of a verbatim record of any court proceeding, deposition, hearing or other matter where such verbatim record is required, or requested by any court, grand jury, referee, counsel or party therein to be made by means of a written system of either manual shorthand procedures or by stenotypy.

(3) "Certified Shorthand Reporter" means an individual who has been certified under Section 5 or 6 of this Act to engage in the practice of shorthand reporting.

Section 2. A new section of KRS Chapter 325 is created to read as follows:

(1) There is hereby created a State Board of Shorthand Reporters consisting of seven (7) members appointed by the Governor. The Board shall consist of one (1) appellate judge, one (1) circuit judge, one (1) practicing trial lawyer, three (3) shorthand reporters, and one (1) member from the public at large. Initial appointments shall be for a term of four (4) years for the appellate judge, one (1) member of the bar, and two (2) shorthand reporters, and for a term of two (2) years for the circuit judge, one (1) shorthand reporter and the member from the public at large. Thereafter, as board members' terms expire their successors shall be appointed for four-year terms. Members of the board may succeed themselves.

(2) In the event of resignation or vacancy for any reason, the governor shall as soon as practicable appoint a successor from a like category as provided in subsection (1) of this section. Members appointed to fill vacancies shall serve for the unexpired term.

(3) The Board shall elect officers, and a majority of the members of the Board shall constitute a quorum for the transaction of business.

(4) Each member of the Board to be appointed under the provisions of this Act shall be paid his actual traveling expenses when such expenses are incurred in pursuance of the duties imposed upon him by this Act, and no other or further compensation or remuneration shall be paid.

Section 3. A new section of KRS Chapter 325 is created to read as follows:

(1) The Board shall:

(a) Administer this Act.

(b) Determine qualifications of applicants.

(c) Establish by administrative regulation requirements for certification examinations which shall consist of an examination in shorthand proficiency and may also include spelling, grammar, legal and medical terminology, court procedures, and such other subjects as the Board may determine.

(d) Grant Certified Shorthand Reporter certificates, and provisional certificates.

(e) Issue an annual certificate to Certified Shorthand Reporters for a fee not to exceed twenty-five dollars ($25).

(f) Establish rules and regulations for the conduct of Certified Shorthand Reporters.

(g) Hold hearings on the competence and conduct of Certified Shorthand Reporters, either on complaint, or its own motion, and to revoke or suspend certificates if warranted.

(h) With the approval of the Governor, or his designated representative, and the Commissioner of the Executive Department for Finance and Administration, the Board shall establish a salary scale fixing the amount official court reporters are to be paid by the state treasurer. The salary scale shall reflect the caseload of each court, the number of days the reporter is required to be in attendance, and all other relevant factors. The Board may from time to time review and amend the salary scale.

(i) Fix and from time to time review and amend as necessary a per diem fee to be charged in civil cases for the taking of stenographic notes, to be paid to the official reporter which shall be paid forthwith by the party in whose behalf the proceedings are reported, and shall be taxed as part of the costs of the action.

(j) Fix and from time to time review and amend as necessary the page rates for transcript, both original and copies, to be paid to the official reporter. The Board may promulgate administrative regulations as to the form to be followed in the preparation of transcripts.

(k) The Board shall keep an accurate record of all of its proceedings, a register of the names and addresses of persons certified to engage in the practice of shorthand reporting, and submit annually to the Governor, a report of its activities.

Section 4. A new section of KRS Chapter 325 is created to read as follows:

(1) No person shall engage in or offer to engage in the practice of shorthand reporting in this state except as provided in Section 10 of this Act unless he is certified by the Board in accordance with the provisions of this Act.

(2) No person shall use the term "Certified Shorthand Reporter" or the initials "C&S&R&" after his name or otherwise indicate that he is certified to engage in the practice of shorthand reporting in this state unless he is certified by the Board to engage in the practice of shorthand reporting.

(3) No person shall engage in or offer to engage in the practice of shorthand reporting during the period of any suspension of his certification by the Board.

Section 5. A new section of KRS Chapter 325 is created to read as follows:

(1) Except as otherwise provided in Section 6 of this Act, the Board shall grant certification to such applicants the Board determines upon examination to be qualified to engage in the practice of shorthand reporting.

(2) The Board may hold examinations for certification as often as it considers necessary and at such times and places as the Board shall designate. The Board shall administer no less than one examination per year.

(3) Each applicant for certification shall submit an application to the Board in such form as the Board may require, accompanied by an original application fee not to exceed fifty dollars ($50). In no case shall an application fee be refunded to an applicant, but an applicant who is unsuccessful in an examination may be re-examined prior to the expiration of twelve (12) months after the date of the initial examination without the payment of any additional fee.

(4) Each applicant for an examination under this section shall be a citizen of the United States, at least eighteen (18) years of age, of good moral character, a high school graduate or have an equivalent educational background satisfactory to the Board and shall possess such other qualifications as the Board, by administrative regulation may require.

(5) An applicant possessing the qualifications required under this Act who successfully passes an examination by the Board shall be certified to engage in the practice of shorthand reporting and shall be entitled to use the designation of "Certified Shorthand Reporter" after his name.

(6) Those passing the examination and receiving certification shall receive their initial annual certificate without payment of any additional fee. Thereafter the fee for renewal of the annual certificate shall not exceed twenty-five dollars ($25).

(7) The Board may authorize the payment of expenses incurred in giving examinations and conducting disciplinary hearings from funds derived from examination and certification fees under this Act, which shall be credited to a separate trust and agency fund account established for the purpose of administering the provisions of this Chapter. No such expenses shall be charged against the general fund account of this Commonwealth.

Section 6. A new section of KRS Chapter 325 is created to read as follows:

(1) The Board shall certify, without examination, a person to engage in the practice of shorthand reporting, if such person has been continuously engaged in this state in the practice of shorthand reporting for twelve (12) months preceding the effective date of this Act and such person submits to the Board an application for certification in such form as the Board may require, with the accompanying annual certification fee not to exceed twenty-five dollars ($25) prior to the expiration of ninety (90) days after the effective date of this Act.

(2) The Board shall certify, without examination, any person who is the holder of the Certificate of Proficiency or Certificate of Merit from the National Shorthand Reporters Association, upon submission to the Board of an application in such form as required by the Board, with the accompanying annual certification fee not to exceed twenty-five dollars ($25).

(3) The Board shall certify, without examination, any person who is the holder of a Certified Shorthand Reporter certification from another state who are at least equivalent to those standards established by the board, upon submission to the Board of an application in such form as required by the Board, with the accompanying annual certification fee not to exceed twenty-five dollars ($25), but this provision shall be limited to holders of such certification from such states having a state law covering such CSR and like reciprocity provisions.

Section 7. A new section of KRS Chapter 325 is created to read as follows:

Any shorthand reporter wishing to practice shorthand reporting in the State of Kentucky other than as an official reporter, shall apply to the Board for a provisional certificate which shall be valid until the next regularly scheduled Certified Shorthand Reporter examination, provided that such application shall be accompanied by an affidavit from a Kentucky Certified Shorthand Reporter certifying that in his opinion the applicant is qualified to meet the requirements of the Kentucky Shorthand Reporters Board and will work during the term of the provisional certificate under the supervision of such sponsoring Certified Shorthand Reporter.

Section 8. A new section of KRS Chapter 325 is created to read as follows:

(1) The Board may revoke a certificate issued under this Act for professional incompetency, unethical conduct, or moral turpitude, except that no certificate shall be revoked without a hearing being held.

(2) The holder of the certificate shall be given written notice by certified mail, return receipt requested, at his last known address at least twenty (20) days before a suspension or revocation hearing. The written notice shall state the cause of such contemplated action and shall set the time for the hearing as determined by the Board.

(3) The Board shall prescribe, by administrative regulation, rules for the conduct of hearings held under this section. The rules shall provide for a fair hearing and shall require the Board to make a record of the proceedings before it.

Section 9. A new section of KRS Chapter 325 is created to read as follows:

Within thirty (30) days after final action by the Board following a hearing, an aggrieved party may petition Franklin Circuit Court for review. The court shall decide the case on the record, and shall not set aside the Board's order except for errors of law or upon a finding that the Board's action was arbitrary or capricious. Either party may appeal the judgment of the Circuit Court to the Court of Appeals in the manner provided in the Rules of Civil Procedure.

Section 10. A new section of KRS Chapter 325 is created to read as follows:

Nothing in this Act shall require use of a Certified Shorthand Reporter to take depositions in any proceeding where no adverse party is present in person or by counsel, or for discovery depositions after judgment as provided by rule 69 of the Rules of Civil Procedure. Additionally, the use of a Certified Shorthand Reporter as defined herein may be waived for the specific reason of the unavailability of such Certified Shorthand Reporter but only by agreement by both or all parties to an action.

Section 11. A new section of KRS Chapter 28 is created to read as follows:

(1) Reporters appointed pursuant to this Act shall be compensated as provided in KRS Chapter 325.

(2) In judicial districts comprising more than one county the official reporter shall be paid for necessary travel expenses outside the county of his residence, and lodging, if such is required in the opinion of the presiding judge; such payment to be made by the Kentucky State Treasurer on voucher in form and manner as prescribed for circuit judges under KRS 64.505.

Section 12. A new section of KRS Chapter 28 is created to read as follows:

In criminal cases the transcript fees shall be paid, upon the order of the presiding judge, by the state, if the transcript is ordered for the use of the Commonwealth's Attorney. If the transcript is requested upon the motion of the defendant, he shall pay for same, if in the opinion of the court he is able to do so. If it appears that the defendant is not able to pay for the transcript, the court shall order that the cost of the original, together with all copies, deemed necessary by the court for the defense of such defendant or defendants or for purposes of appeal, shall be paid by the state. Claims for such transcript payments by the state shall be submitted and approved in accordance with the applicable law and rules and regulations governing the payment of claims for expenses by the state.

Section 13. KRS 28.410 is amended to read as follows:

(1) Each circuit judge *shall* [may] appoint *a Certified Shorthand Reporter to be attached to* [an official stenographic reporter for] his court or division, *and such reporter* [except that if his judicial district embraces more than one (1) county, none of which contains a city of the third class, he may appoint one (1) official stenographic reporter for the district, or except that his court or division qualifies under the provisions of subsection (2) of this section. The reporter shall be skilled in the profession, and] shall hold office at the pleasure of the judge. *The court reporter shall be responsible for taking full stenographic notes of the entire proceedings in all criminal cases, including arraignments, preliminary motions, pre-trial hearings, rulings of court, examination of jurors, testimony, instructions to the jury, arguments of counsel and proceedings on verdict and judgment.*

(2) Each circuit judge regularly presiding over criminal trials may *if necessary, due to the volume of cases* employ an additional *certified shorthand* [stenographic] reporter *to* [. The reporter shall be skilled in the profession, and shall] hold office at the pleasure of the judge. This subsection shall apply to circuit courts in counties containing a city of the first or second class.

(3) When a vacancy arises, the judge shall forthwith give written notice of said vacancy to the board. The board will provide to said judge a list of Certified Shorthand Reporters available to fill such vacancy. If no certified shorthand reporter is available to fill such vacancy, the judge in whose court the vacancy exists may then appoint any available qualified shorthand reporter who is not certified to serve said court until the next regularly scheduled Certified Shorthand Reporter examination, at which time the reporter shall be required to take the examination. If such candidate is unsuccessful and upon a showing of need and the board's inability to provide a Certified Shorthand Reporter, the board shall issue a provisional certificate to such reporter for an additional twelve (12) months.

Section 14. KRS 28.430 is amended to read as follows:

(1) [(a)] Upon any trial or proceeding if either party requests the services of the reporter, or if, in the opinion of the presiding judge, the testimony should be preserved, the presiding judge shall direct the reporter to, and the reporter shall, take full stenographic notes of the proceedings.

[(b) In counties having a population of 150,000 or more, the reporter of the criminal branch of the circuit court shall take down the proceedings in all cases, embracing preliminary motions, rulings of court, examination of jurors, testimony and arguments of counsel.]

(2) *Upon* [In all criminal proceedings, upon] the motion of either party the court shall order the reporter to make a full and accurate transcript and duplicate copy of his notes. The original shall be filed among the papers to be used in making up the record on appeal to the Court of Appeals. The duplicate copy shall be filed with the papers, and remain in the office of the clerk of the court as a public record.

(3) In all civil actions the record of proceedings and the transcript of evidence shall be made up in accordance with the Rules of Civil Procedure *and regulations established by the Kentucky Board of Certified Shorthand Reporters.*

Section 15. KRS 28.435 is amended to read as follows:

(1) Any circuit judge may, if he deems it necessary to aid the court and the stenographic reporter, require that a device for the recording of the testimony be used in any proceeding in a circuit court; Provided That such a device may not be used for recording the testimony in a proceeding unless the regular or a special stenographic reporter is present to take full stenographic notes of the proceeding [, except that the court with the approval of the parties, acting through their respective attorneys, may require that a device be used solely for recording such testimony without the presence of a stenographic reporter].

(2) The fiscal court of any county or an urban government may purchase a recording device for the use of the circuit court of that county or urban government if it deems the purchase of such a device to be to the best interest of the *circuit court, said purchase and maintenance of equipment to be made under the provisions of KRS 32.020(2). When the the circuit judge requires the use of a recording device, the supplies for said device shall also be paid by the fiscal court of the county wherein the recording device is used under the provisions of KRS 32.020(2)* [county or urban government, considering the county or urban government finances and other permissible expenditures].

(3) Recording device, as used in this section, means any device, materials and appurtenances, by which the voices of speakers are recorded so that they may be reproduced later in audible form.

Section 16. KRS 28.500 is amended to read as follows:

Certified Shorthand Reporters appointed pursuant to KRS 28.410 may, in any county of the state, take depositions [in shorthand], issue subpoenas for witnesses, compel the attendance of witnesses and administer oaths in the same manner as is provided by law for notaries public.

Section 17. KRS 32.030 is amended to read as follows:

[(1) Each circuit judge may employ an official court reporter for his judicial district or division. The court reporter shall be skilled in the profession and shall hold office at the pleasure of the judge. The court reporter shall be responsible for taking full stenographic notes of the proceedings in all criminal cases, including arraignments, preliminary motions, pretrial hearings, rulings of court, examination of jurors, testimony and arguments of counsel. The court reporter shall be responsible for preparing a full and accurate transcript and duplicate copy of his notes of all criminal proceedings upon motion of the commonwealth or the defendant. No additional fee or compensation other than the annual salary provided in subsection (3) hereof shall be charged by or allowed to the court reporter for preparation of a transcript for the commonwealth or a moving defendant in forma pauperis. If the transcript is made upon motion of the defendant in a criminal case other than in forma pauperis, the defendant shall pay the fee provided by law.]

[(2) The court reporter may take full stenographic notes of any other trial or proceeding if either party requests the services of the reporter, or if, in the opinion of the presiding judge, the testimony should be preserved. The court reporter may charge and receive fees and per diem allowances for civil proceedings as provided by law in addition to the annual salary provided herein.]

[(3) The salary for the official court reporter, payable out of the state treasury, shall be as follows:

(a) In judicial districts containing a population of less than 30,000 the sum of $6,600 per annum;

(b) In judicial districts containing a population of at least 30,000 but less than 40,000 the sum of $7,500 per annum;

(c) In judicial districts containing a population of 40,000 or more, the sum of $8,400 per annum;

(d) In addition to the salary schedule set forth in this section, the official court reporter may serve as secretary to the circuit judge and receive additional compensation as provided in this section.]

(1) [(4)] Each circuit judge may employ a secretary. The secretary shall be appointed by and shall hold office at the pleasure of the judge. The salary for the secretary, payable out of the state treasury, shall be commensurate with the secretary's education, training, and experience based upon the guidelines established by the classification and compensation plan for comparable positions maintained by the state department of personnel pursuant to KRS 64.640.

(2) [(5)] The circuit judge in a judicial district with two (2) or more judges, and the circuit judge in a one-judge, single county judicial district may elect to employ his official court reporter as his secretary. If the judge so elects, the court reporter/secretary shall be paid an annual salary of the applicable amount payable under the salary schedule for court reporters established by *Kentucky State Board of Shorthand Reporters* [KRS 32.010 to 32.070] plus an additional sum of not to exceed fifty per cent (50%) of that salary. If the judge elects the court reporter/secretary plan under this subsection, the court reporter/secretary shall devote full time to her duties as such and shall not be permitted to engage in any other professional activities as a court reporter or court stenographer. The positions of court reporter and secretary shall not be so merged in judicial districts containing two (2) or more counties.

Section 18. A new section of KRS Chapter 325 is created to read as follows:
Violation of Section 4 of this Act shall be punishable upon conviction, by a fine of not less than fifty dollars ($50) nor more than two hundred dollars ($200). Each day of violation shall be considered a separate offense.

The Committee Substitute for **HB 22** is as follows:

HB 22, AN ACT relating to shorthand reporters.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 325 is created to read as follows:
As used in this Act unless the context requires otherwise:
(1) "Board" means the Kentucky State Board of Shorthand Reporters.
(2) "Practice of shorthand reporting" means the making of a verbatim record of any court proceeding, deposition, hearing or other matter where such verbatim record is required, or requested by any court, grand jury, referee, counsel or party therein to be made by means of a written system of either manual shorthand procedures or by stenotypy.
(3) "Certified Shorthand Reporter" means an individual who has been certified under Section 5 or 6 of this Act to engage in the practice of shorthand reporting.

Section 2. A new section of KRS Chapter 325 is created to read as follows:
(1) There is hereby created a State Board of Shorthand Reporters consisting of seven (7) members appointed by the Governor. The Board shall consist of one (1) appellate judge, one (1) circuit judge, one (1) practicing trial lawyer, three (3) shorthand reporters, and one (1) member from the public at large. Initial appointments shall be for a term of four (4) years for the appellate judge, one (1) member of the bar, and two (2) shorthand reporters, and for a term of two (2) years for the circuit judge, one (1) shorthand reporter and the member from the public at large. Thereafter, as board members' terms expire their successors shall be appointed for four-year terms. Members of the board may succeed themselves.
(2) In the event of resignation or vacancy for any reason, the governor shall as soon as practicable appoint a successor from a like category as provided in subsection (1) of this section. Members appointed to fill vacancies shall serve for the unexpired term.
(3) The Board shall elect officers, and a majority of the members of the Board shall constitute a quorum for the transaction of business.
(4) Each member of the Board to be appointed under the provisions of this Act shall be paid his actual traveling expenses when such expenses are incurred in pursuance of the duties imposed upon him by this Act, and no other or further compensation or remuneration shall be paid.

Section 3. A new section of KRS Chapter 325 is created to read as follows:
(1) The Board shall:
(a) Administer this Act.
(b) Determine qualifications of applicants.
(c) Establish by administrative regulation requirements for certification examinations which shall consist of an examination in shorthand proficiency and may also include spelling, grammar, legal and medical

terminology, court procedures, and such other subjects as the Board may determine.

(d) Grant Certified Shorthand Reporter certificates, and provisional certificates.

(e) Issue an annual certificate to Certified Shorthand Reporters for a fee not to exceed twenty-five dollars ($25).

(f) Establish rules and regulations for the conduct of Certified Shorthand Reporters.

(g) Hold hearings on the competence and conduct of Certified Shorthand Reporters, either on complaint, or its own motion, and to revoke or suspend certificates if warranted.

(h) Recommend to the Chief Justice of the Supreme Court and the Commissioner of the Executive Department for Finance and Administration a salary scale for official court reporters in each judicial district, taking into consideration the caseload of each court, the number of days the reporter is required to be in attendance, and all other relevant factors.

(i) Fix and from time to time review and amend as necessary a per diem fee to be charged in civil cases for the taking of stenographic notes, to be paid to the official reporter which shall be paid forthwith by the party in whose behalf the proceedings are reported, and shall be taxed as part of the costs of the action.

(j) Fix and from time to time review and amend as necessary the page rates for transcript, both original and copies, to be paid to the official reporter by the party requesting such transcript or copies. The Board may promulgate administrative regulations as to the form to be followed in the preparation of transcripts.

(k) The Board shall keep an accurate record of all of its proceedings, a register of the names and addresses of persons certified to engage in the practice of shorthand reporting, and submit annually to the Governor, a report of its activities.

Section 4. A new section of KRS Chapter 325 is created to read as follows:

(1) No person shall engage in or offer to engage in the practice of shorthand reporting in this state except as provided in Section 10 of this Act unless he is certified by the Board in accordance with the provisions of this Act.

(2) No person shall use the term "Certified Shorthand Reporter" or the initials "C&S&R&" after his name or otherwise indicate that he is certified to engage in the practice of shorthand reporting in this state unless he is certified by the Board to engage in the practice of shorthand reporting.

(3) No person shall engage in or offer to engage in the practice of shorthand reporting during the period of any suspension of his certification by the Board.

Section 5. A new section of KRS Chapter 325 is created to read as follows:

(1) Except as otherwise provided in Section 6 of this Act, the Board shall grant certification to such applicants the Board determines upon examination to be qualified to engage in the practice of shorthand reporting.

(2) The Board may hold examinations for certification as often as it considers necessary and at such times and places as the Board shall designate. The Board shall administer no less than one examination per year.

(3) Each applicant for certification shall submit an application to the Board in such form as the Board may require, accompanied by an original application fee not to exceed fifty dollars ($50). In no case shall an application fee be refunded to an applicant, but an applicant who is unsuccessful in an examination may be re-examined prior to the expiration of twelve (12) months after the date of the initial examination without the payment of any additional fee.

(4) Each applicant for an examination under this section shall be a citizen of the United States, at least eighteen (18) years of age, of good moral character, a high school graduate or have an equivalent educational background satisfactory to the Board and shall possess such other qualifications as the Board, by administrative regulation may require.

(5) An applicant possessing the qualifications required under this Act who successfully passes an examination by the Board shall be certified to engage in the practice of shorthand reporting and shall be entitled to use the designation of "Certified Shorthand Reporter" after his name.

(6) Those passing the examination and receiving certification shall receive their initial annual certificate without payment of any additional fee. Thereafter the fee for renewal of the annual certificate shall not exceed twenty-five dollars ($25).

(7) The Board may authorize the payment of expenses incurred in giving examinations and conducting disciplinary hearings from funds derived from examination and certification fees under this Act, which shall be credited to a separate trust and agency fund account established for the purpose of administering the provisions of this Chapter. No such expenses shall be charged against the general fund account of this Commonwealth.

Section 6. A new section of KRS Chapter 325 is created to read as follows:

(1) The Board shall certify, without examination, a person to engage in the practice of shorthand reporting, if such person has been continuously engaged in this state in the practice of shorthand reporting for twelve (12) months preceding the effective date of this Act and such person submits to the Board an application for certification in such form as the Board may require, with the accompanying annual certification fee not to exceed twenty-five dollars ($25) prior to the expiration of ninety (90) days after the effective date of this Act.

(2) The Board shall certify, without examination, any person who is the holder of the Certificate of Proficiency or Certificate of Merit from the National Shorthand Reporters Association, upon submission to the Board of an application in such form as required by the Board, with the accompanying annual certification fee not to exceed twenty-five dollars ($25).

(3) The Board shall certify, without examination, any person who is the holder of a Certified Shorthand Reporter certification from another state whose standards are at least equivalent to those standards established by the board, upon submission to the Board of an application in such form as required by the Board, with the accompanying annual certification fee not to exceed twenty-five dollars ($25), but this provision shall be limited to holders of such certification from such states having a state law covering such CSR and like reciprocity provisions.

Section 7. A new section of KRS Chapter 325 is created to read as follows:

Any shorthand reporter wishing to practice shorthand reporting in the State of Kentucky other than as an official reporter, shall apply to the Board for a provisional certificate which shall be valid until the next regularly scheduled Certified Shorthand Reporter examination, provided that such application shall be accompanied by an affidavit from a Kentucky Certified Shorthand Reporter certifying that in his opinion the applicant is qualified to meet the requirements of the Kentucky Shorthand Reporters Board and will work during the term of the provisional certificate under the supervision of such sponsoring Certified Shorthand Reporter.

Section 8. A new section of KRS Chapter 325 is created to read as follows:

(1) The Board may revoke a certificate issued under this Act for professional incompetency, unethical conduct, or moral turpitude, except that no certificate shall be revoked without a hearing being held.

(2) The holder of the certificate shall be given written notice by certified mail, return receipt requested, at his last known address at least twenty (20) days before a suspension or revocation hearing. The written notice shall state the cause of such contemplated action and shall set the time for the hearing as determined by the Board.

(3) The Board shall prescribe, by administrative regulation, rules for the conduct of hearings held under this section. The rules shall provide for a fair hearing and shall require the Board to make a record of the proceedings before it.

Section 9. A new section of KRS Chapter 325 is created to read as follows:

Within thirty (30) days after final action by the Board following a hearing, an aggrieved party may petition Franklin Circuit Court for review. The court shall decide the case on the record, and shall not set aside the Board's order except for errors of law or upon a finding that the Board's action was arbitrary or capricious. Either party may appeal the judgment of the Circuit Court to the Court of Appeals in the manner provided in the Rules of Civil Procedure.

Section 10. A new section of KRS Chapter 325 is created to read as follows:

Nothing in this Act shall require use of a Certified Shorthand Reporter to take depositions in any proceeding where no adverse party is present in person or by counsel, or for discovery depositions after judgment as provided by rule 69 of the Rules of Civil Procedure. Additionally, the use of a Certified Shorthand Reporter as defined herein may be waived for the specific reason of the unavailability of such Certified Shorthand Reporter but only by agreement by both or all parties to an action.

Section 11. KRS 28.410 is amended to read as follows:

(1) Each circuit judge *shall* [may] appoint *a Certified Shorthand Reporter to be attached to* [an official stenographic reporter for] his court or division, *and such reporter* [except that if his judicial district embraces more than one (1) county, none of which contains a city of the third class, he may appoint one (1) official stenographic reporter for the district, or except that his court or division qualifies under the provisions of subsection (2) of this section. The reporter shall be skilled in the profession, and] shall hold office at the pleasure of the judge.

(2) Each circuit judge regularly presiding over criminal trials may *if necessary, due to the volume of cases* employ an additional *certified shorthand* [stenographic] reporter *to* [. The reporter shall be skilled in the profession, and shall] hold office at the pleasure of the judge. This subsection shall apply to circuit courts in

counties containing a city of the first or second class *or an urban county form of government. In counties containing a population of over 150,000 the judges may if necessary, due to the volume of cases and upon a showing of need, appoint one additional Certified Shorthand Reporter to hold office at the pleasure of the judges in such counties.*

(3) When a vacancy arises, the judge shall forthwith give written notice of said vacancy to the board. The board will provide to said judge a list of Certified Shorthand Reporters available to fill such vacancy. If no certified shorthand reporter is available, and acceptable to the judge, to fill such vacancy, the judge in whose court the vacancy exists may then appoint any available qualified shorthand reporter who is not certified to serve said court until the next regularly scheduled Certified Shorthand Reporter examination, at which time the reporter shall be required to take the examination. If such candidate is unsuccessful and upon a showing of need and the board's inability to provide a Certified Shorthand Reporter, who is acceptable to the judge, the board shall issue a provisional certificate to such reporter for an additional twelve (12) months.

Section 12. KRS 28.500 is amended to read as follows:

Certified Shorthand Reporters appointed pursuant to KRS 28.410 may, in any county of the state, take depositions [in shorthand], issue subpoenas for witnesses, compel the attendance of witnesses and administer oaths in the same manner as is provided by law for notaries public.

Section 13. A new section of KRS Chapter 325 is created to read as follows:

Violation of Section 4 of this Act shall be punishable upon conviction, by a fine of not less than fifty dollars ($50) nor more than two hundred dollars ($200). Each day of violation shall be considered a separate offense.

Section 14. The effective date of this Act shall be July 1, 1976.

Posting of Bills and Resolutions for Consideration

The Clerk announced that **HB 268** and **HB 449** have been posted for committee consideration by the Committee on Cities.

Orders of the Day

HJR 7 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Imes moved that **HJR 7** be passed.

Representative Maynard moved the adoption of the Previous Question on **HJR 7.**

Representative McBride moved that **HJR 7** be laid on the table.

On the roll call the vote was yeas 35-Bendl, Benson, Beshear, Blume, Blythe, Brown, Clarke, Craddock, Cyrus, DeMarcus, Fitzgerald, Floyd, Givhan, Hancock, Hopkins, Kenton, Kidd, King, LeMaster, Mann, McBee, McBride, McGill, Muncy, Sale, Siemens, Siler, Stephens, Stewart, Tobin, Thomas, R. Turner, White, Wible, Wooden. Nays 58-Ackerson, B. Adams, A. S. Adams, J. Allen, W. Allen, Arnold, Bennett, Bevins, Blair, Blandford, Boatwright, Brinkley, Bruce, Burnette, Carpenter, Cooper, Crupper, Dawahare, DeFalaise, Denham, Deskins, Dietz, Donnermeyer, Doss, Dunn, Foster, Freeman, Gray, Guenthner, Hardwick, Head, Holbrook, Holloway, Hughes, Imes, Isler, Jones, Lindsay, Little, May, Maynard, Morgan, Morris, Nett, O'Brien, Overstreet, Pearl, Priddy, Richards, B. Richardson, P. Richardson, Robinson, Romines, Schmidt, J. Turner, Vincent, Wright, Yates.

The motion that **HJR 7** be laid on the table was rejected.

On the roll call the vote was yeas 60-Ackerson, B. Adams, A. S. Adams, J. Allen, W. Allen, Arnold, Bennett, Bevins, Blair, Blandford, Boatwright, Brinkley, Burnette, Carpenter, Cooper, Crupper, Denham, Deskins, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Foster, Freeman, Gray, Guenthner, Hancock, Hardwick, Head, Holloway, Hughes, Hurst, Imes, Isler, Jones, Kenton, LeMaster, Little, May, Maynard, McBee, Morgan, Morris, Nett, O'Brien, Pearl, Priddy, Richards, B. Richardson, P. Richardson, Romines, Sale, Thomas. J. Turner,

R. Turner, Vincent, Wells, Wright, Yates. Nays 32-Bendl, Benson, Beshear, Blume, Blythe, Bruce, Clarke, Craddock, Cyrus, Dawahare, DeFalaise, DeMarcus, Floyd, Givhan, Kidd, King, Lindsay, Mann, McBride, McGill, Muncy, Overstreet, Rattliff, Robinson, Schmidt, Siemens, Siler, Stephens, Stewart, Tobin, Wible, Wooden.

The motion that the Previous Question be adopted on **HJR 7** was adopted.

On the roll call the vote was yeas 57-Ackerson, B. Adams, A. S. Adams, J. Allen, W. Allen, Arnold, Bennett, Bevins, Blandford, Boatwright, Brinkley, Bruce, Burnette, Carpenter, Cooper, Crupper, Dawahare, DeFalaise, Denham, Deskins, Dietz, Donnermeyer, Doss, Dunn, Foster, Freeman, Gray, Guenthner, Hardwick, Head, Holbrook, Holloway, Hughes, Hurst, Imes, Isler, Jones, Lindsay, May, Maynard, Morgan, Morris, Nett, O'Brien, Overstreet, Pearl, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Robinson, Romines, Schmidt, Vincent, Wright, Yates. Nays 40-Bendl, Benson, Beshear, Blair, Blume, Blythe, Brown, Clarke, Craddock, Cyrus, DeMarcus, Fitzgerald, Floyd, Givhan, Hancock, Hopkins, Kenton, Kidd, King, Kleier, LeMaster, Little, Mann, McBee, McBride, McGill, Muncy, Sale, Siemens, Siler, Stephens, Stewart, Tobin, Thomas, J. Turner, R. Turner, Wells, White, Wible, Wooden.

HJR 7 was passed and the title agreed to.

Representative Imes moved that the vote by which **HJR 7** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Recess

Representative B. Richardson moved that the House recess for ten minutes.

On the roll call the vote was yeas 44-B. Adams, A. S. Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blandford, Brown, Carpenter, Cyrus, DeFalaise, Dietz, Donnermeyer, Doss, Foster, Head, Holloway, Hughes, Imes, Isler, Kenton, Kidd, King, LeMaster, May, Maynard, Nett, O'Brien, Richards, Romines, Sale, Siemens, Stephens, Stewart, R. Turner, Vincent, Wible, Wright, Yates. Nays 13-Blythe, Crupper, DeMarcus, Deskins, Gray, Guenthner, Holbrook, Jones, Mann, Morris, Rattliff, P. Richardson, Robinson.

The motion that the House recess for ten minutes was adopted.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Orders of the Day

Representative B. Richardson moved that consideration of **HB 34, HB 121, HB 262, HB 334,** and **HB 24** be deferred and that they retain their position in Orders of the Day. Agreed.

HB 77, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative A. S. Adams moved the adoption of the Committee Amendment to **HB 77.** Agreed.

Representative A. S. Adams moved that **HB 77,** as amended, be passed.

On the roll call the vote was yeas 78-A. S. Adams, J. Allen, W. Allen, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blandford, Blume, Blythe, Boatwright, Brinkley, Brown, Carpenter, Clarke, Craddock, Crupper, Cyrus, Dawahare, DeFalaise, DeMarcus, Denham, Deskins, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Floyd, Foster, Freeman, Gay, Guenthner, Hardwick, Head, Holbrook, Holloway, Hopkins, Hughes, Imes, Isler, Jones, Kenton, Kidd, King, Kleier, LeMaster, Maynard, McBee, McGill, Morgan, Muncy, Nett, O'Brien, Pearl, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Robinson, Romines, Siemens, Siler, Stephens, Stewart, Tobin, J. Turner, R. Turner, Vincent, Wells, White, Wible, Wooden, Wright, Yates. Nays 10-B. Adams, Arnold, Givhan, Gray, Hurst, Lindsay, Mason, McBride, Overstreet, Sale.

HB 77, as amended, was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **HB 77,** as amended, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 8, with Committee Substitute attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Clarke moved the adoption of the Committee Substitute for **HB 8.** Agreed.

Representative Clarke moved that **HB 8,** by way of Committee Substitute, be passed.

On the roll call the vote was yeas 90-B. Adams, A. S. Adams, J. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blandford, Blume, Blythe, Boatwright, Brinkley, Brown, Bruce, Burnette, Carpenter, Clarke, Craddock, Crupper, Cyrus, DeFalaise, DeMarcus, Denham, Dietz, Donnermeyer, Doss, Dunn, Floyd, Foster, Gay, Givhan, Gray, Guenthner, Hancock, Hardwick, Head, Holloway, Hopkins, Hughes, Hurst, Imes, Isler, Jones, Kenton, Kidd, King, Kleier, LeMaster, Lindsay, Mann, Mason, May, Maynard, McBee, McBride, McGill, Morgan, Morris, Muncy, Nett, O'Brien, Overstreet, Pearl, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Robinson, Romines, Sale, Schmidt, Siemens, Siler, Stephens, Stewart, Tobin, Thomas, J. Turner, R. Turner, Vincent, Wells, White, Wible, Wooden, Wright, Yates. Nays 4-W. Allen, Deskins, Fitzgerald, Little.

HB 8, by way of Committee Substitute, was passed and the title agreed to.

Representative Clarke moved that the vote by which **HB 8,** by way of Committee Substitute, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative B. Richardson moved that consideration of **HB 17, HB 102, HB 116** be deferred and that they retain their position in Orders of the Day. Agreed.

HB 117 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Yates moved that **HB 117** be passed.

On the roll call the vote was yeas 92-Ackerson, B. Adams, A. S. Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blandford, Blume, Boatwright, Brown, Bruce, Burnette, Carpenter, Clarke, Craddock, Crupper, Cyrus, DeFalaise, DeMarcus, Denham, Deskins, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Floyd, Foster, Gay, Givhan, Gray, Guenthner, Hancock, Hardwick, Head, Holbrook, Holloway, Hopkins, Hughes, Hurst, Imes, Isler, Jones, Kenton, Kidd, King, Kleier, LeMaster, Lindsay, Little, Mann, Mason, May, McBee, McBride, McGill, Morgan, Morris, Muncy, Nett, O'Brien, Overstreet, Pearl, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Robinson, Romines, Sale, Schmidt, Siemens, Siler, Stephens, Stewart, Tobin, Thomas, J. Turner, R. Turner, Vincent, White, Wible, Wooden, Wright, Yates. Nays -0.

HB 117 was passed and the title agreed to.

Representative Yates moved that the vote by which **HB 117** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative B. Richardson moved that consideration of **HB 128** and **HB 151** be deferred and that they retain their position in Orders of the Day. Agreed.

HB 208 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative B. Richardson moved the adoption of the following Floor Amendment No. 1 to **HB 208:**

Amend printed copy of House Bill 208 on page 1, line 11, insert "passenger" before elevators and on page 1, following line 14, insert the following: "Section 3. KRS 336.510 is amended to read as follows:

As used in KRS 336.520 to 336.680, unless the context otherwise requires:

(1) "Elevator" means all the machinery, construction, apparatus, and equipment used in raising and lowering a car, cage, or platform vertically between permanent rails or guides, and includes all elevators, power dumbwaiters, escalators, gravity elevators, and other lifting or lowering apparatus permanently installed between rails or guides, but does not include hand operated dumbwaiters, manlifts of the platform type with a platform area not exceeding nine hundred square inches, construction hoists, or other similar temporary lifting or lowering apparatus.

(2) "Passenger elevator" means an elevator that is designated to carry persons to its contract capacity.

(3) "Freight elevator" means an elevator [normally] used for carrying freight and on which only the operator [and employes in the pursuit of their duties] by the permission of the employer *is* [are] allowed to ride.

(4) "General inspector" means a state inspector examined and hired to inspect elevators for the state labor department.

(5) "Special inspector" means an inspector examined and certified by the chief of the division of elevator inspection to inspect elevators in the state.

(6) "Inspector" means either a general or special inspector.

(7) "Division" means the division of elevator inspection.

(8) "Certificate of operation" is a certificate issued by the division of elevator inspection authorizing the operation of an elevator which must be conspicuously posted on the elevator at all times.

Section 4. KRS 336.600 is amended to read as follows:

Every passenger elevator *and*[,] escalator[, and freight elevator, including gravity elevators,] shall be inspected once every twelve months. [Power dumbwaiters, hoists, and other lifting or lowering apparatus permanently installed, between rails or guides, shall be inspected at least once every eighteen months.]

Section 5. KRS 336.610 is amended to read as follows:

(1) Every inspector shall forward to the division of elevator inspection a full report of each inspection made of any *passenger* elevator, showing the exact condition of the said elevator, and said inspector shall leave a copy of said report at the elevator on the day the inspection is completed.

(2) If any *passenger* elevator requires certain changes or repairs to make it reasonably safe to operate, such recommendations shall be made by the inspector upon his report and a copy of such report as approved by the issuance thereof.

Section 6. KRS 336.630 is amended to read as follows:

Every *passenger* elevator shall be equipped, maintained, and operated, with respect to the supporting members, elevator car, shaftways, guides, cables, doors, and gates, safety stops and mechanism, electrical apparatus and wiring, mechanical apparatus, counterweights, and all other appurtenances, in accordance with the regulations as are authorized in respect thereto. Where reasonable safety is obtained without complying to the literal requirements of such regulations as in cases of practical difficulty or unnecessary hardship, the literal requirements of such regulations shall not be required.

Section 7. KRS 336.640 is amended to read as follows:

No certificate of operation for any *passenger* elevator shall be issued until such elevator has been inspected and the report thereof filed with the chief of the division of elevator inspection. Such certificate of operation, when issued, shall bear the date of inspection, and shall be renewed as of the date of the subsequent inspection, provided such inspection is made at least one year after the issuance of such certificate. If such inspection is made during the year such certificate is in force, the renewal date shall be one year from the date of the certificate being renewed and the renewal certificate shall show the date of inspection."

Section 8. KRS 336.670 is amended to read as follows:

No person shall violate any law relative to the operation, construction, maintenance, and repair of *passenger* elevators. All fines collected for a violation of this section shall be forwarded to the chief of the division of elevator inspection, who shall pay the same into the state treasury to the credit of the general revenue fund.

Section 9. KRS 336.680 is amended to read as follows:

If the chief of the division of elevator inspection or a general inspector of elevators finds that *a passenger* [an] elevator or a part thereof does not afford reasonable safety, the chief or the general inspector may post a notice upon such elevator prohibiting further use of the elevator until the changes or alterations set1 forth in the notice have been made to the satisfaction of the chief or the inspector. Said notice shall contain a statement that operators or passengers are subject to injury by its continued use, a description of the alteration or other change necessary to be made in order to secure safety of operation, date of such notice, name and signature of the chief or inspector issuing the notice."

and on page 1, line 15, insert the following: "10"; delete "3".

On the roll call the vote was yeas 60-B. Adams, A. S. Adams, W. Allen, Arnold, Blair, Blandford, Blythe, Boatwright, Brinkley, Bruce, Burnette, Carpenter, Clarke, Craddock, Crupper, DeFalaise, Doss, Fitzgerald, Foster, Givhan, Guenthner, Hancock, Hardwick, Head, Hopkins, Hughes, Hurst, Imes, Isler, Kidd, King, Kleier, LeMaster, Lindsay, May, McBee, McGill, Morgan, Morris, O'Brien, Pearl, Rattliff, Richards, B. Richardson, P. Richardson, Robinson, Sale, Schmidt, Stephens, Stewart, Tobin, Thomas, J. Turner, R. Turner, Vincent, Wells, White, Wooden, Wright, Yates. Nays 16-J. Allen, Bendl, Bennett, Beshear, Cyrus, DeMarcus, Deskins, Floyd, Gray, Little, Muncy, Nett, Priddy, Romines, Siemens, Wible.

Floor Amendment No. 1 to **HB 208** was adopted.

Representative B. Richardson moved that **HB 208**, as amended, be passed.

On the roll call the vote was yeas 71-Ackerson, B. Adams, A. S. Adams, J. Allen, W. Allen, Arnold, Bennett, Blair, Blandford, Boatwright, Brinkley, Bruce, Burnette, Carpenter, Clarke, Craddock, Crupper, DeFalaise, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Floyd, Foster, Givhan, Guenthner, Hancock, Hardwick, Head, Hughes, Hurst, Imes, Isler, Kenton, Kidd, King, Kleier, LeMaster, Lindsay, Mann, May, Maynard, McBee, McBride, McGill, Morgan, Morris, O'Brien, Pearl, Rattliff, Richards, B. Richardson, P. Richardson, Robinson, Romines, Sale, Schmidt, Stephens, Stewart, Tobin, Thomas, J. Turner, R. Turner, Vincent, Wells, White, Wible, Wooden, Wright, Yates. Nays 16-Beshear, Blume, Blythe, Cyrus, DeMarcus, Denham, Deskins, Gray, Holbrook, Holloway, Hopkins, Little, Mason, Nett, Priddy, Siemens.

HB 208, as amended, was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **HB 208**, as amended, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 210 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

On the roll call the vote was yeas 87-Ackerson, B. Adams, A. S. Adams, J. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blandford, Blume, Boatwright, Brown, Bruce, Burnette, Carpenter, Clarke, Craddock, Crupper, Cyrus, DeFalaise, DeMarcus, Denham, Deskins, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Floyd, Foster, Freeman, Givhan, Gray, Guenthner, Hardwick, Head, Holbrook, Holloway, Hopkins, Hughes, Hurst, Imes, Isler, Jones, Kenton, Kidd, King, LeMaster, Little, Mann, Mason, May, Maynard, McBee, McBride, McGill, Morgan, Morris, Muncy, Nett, O'Brien, Pearl, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Robinson, Romines, Sale, Schmidt, Siemens, Siler, Stephens, Stewart, Tobin, J. Turner, R. Turner, Vincent, Wells, White, Wible, Wooden, Yates. Nays 5-W. Allen, Blythe, Hancock, Lindsay, Thomas.

HB 210 was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **HB 210** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 17 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Mann moved that **HB 17** be passed.

Representative Wible moved that **HB 17** be laid on the table.

On the roll call the vote was yeas 38-Ackerson, B. Adams, A. S. Adams, J. Allen, Beshear, Brown, Bruce, Burnette, Carpenter, Clarke, Crupper, DeMarcus, Denham, Foster, Givhan, Head, Holbrook, Hopkins, Hughes, Little, May, Maynard, McGill, Morris, Muncy, Nett, Pearl, Rattliff, Richards, B. Richardson, P. Richardson, Robinson, Sale, Siler, R. Turner, Vincent, White, Wible. Nays 41-W. Allen, Bendl, Bennett, Benson, Blume, Blythe, Boatwright, Cyrus, DeFalaise, Deskins, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Floyd, Gray, Guenthner, Hancock, Holloway, Hurst, Imes, Isler, Kidd, King, Kleier, LeMaster, Mann, McBee, McBride, Morgan, Priddy, Schmidt, Siemens, Stephens, Stewart, Tobin, Thomas, J. Turner, Wooden, Yates.

The motion that **HB 17** be laid on the table was rejected.

On the roll call the vote was yeas 43-Ackerson, Bendl, Bennett, Benson, Blair, Blume, Blythe, Boatwright, Cyrus, DeFalaise, Dietz, Donnermeyer, Dunn, Fitzgerald, Gray, Guenthner, Holloway, Hurst, Isler, Jones, Kenton, Kidd, King, Kleier, LeMaster, Mann, Maynard, McBee, McBride, McGill, Morgan, Nett, O'Brien, Priddy, Romines, Schmidt, Siemens, Stephens, Stewart, Thomas, J. Turner, Wooden, Yates. Nays-41-B. Adams, A. S. Adams, J. Allen, Beshear, Blandford, Brown, Bruce, Carpenter, Clarke, Crupper, DeMarcus, Denham, Deskins, Doss, Floyd, Foster, Freeman, Head, Holbrook, Hopkins, Hughes, Imes, Little, May, Morris, Muncy, Pearl, Rattliff, Richards, B. Richardson, P. Richardson, Robinson, Sale, Siler, Tobin, R. Turner, Vincent, Wells, White, Wible, Wright.

HB 17 was passed and the title agreed to.

Representative Mann moved that the vote by which **HB 17** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative B. Richardson moved that consideration of all the bills remaining in Orders of the Day be deferred and that they retain their position. Agreed.

Representative Clarke moved that the rules be suspended for Posting of Bills and Resolutions for Consideration. Agreed.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Appropriations and Revenue: **HB 47, HB 191, HB 168, HB 374, SB 116.**

Public Utilities and Transportation: **HB 476.**

Announcements

Representative DeFalaise filed Floor Title Amendment to **HB 193** and Floor Amendment No. 2 to **HB 193.**

Representative King filed Floor Title Amendment to **HB 25** and Floor Amendment No. 1 to **HB 25.**

The following Discharge Petition was filed for **HB 390.**

Pursuant to House Rule 47 of the 1976 Regular Session of the Kentucky General Assembly, the following regularly elected and qualified members of the House hereby request that **HB 390,** be discharged from the Committee on Cities, to which it was referred by the Committee on Committees on February 2, 1976, for consideration by the House as provided in the said rule.

The following members signed the petition:

Thomas B. Givhan, Forest Aggie Sale, Lewis Foster, Nick L. Pearl, Allene A. Craddock, Sam Thomas, G. W. Vincent, David Mason, Charles R. Holbrook, III, Mary Ann Tobin, Ward Burnette, Bob Jones, Kenneth C. Imes, James "Jitter" Allen, John Hurst, Jody Richards, William T. Brinkley, P. W. Boatwright, Glenn Freeman, Mark Fitzgerald, Richard A. Turner, W. D. "Doc" Blair, Gross Lindsay, Woody Allen, Herbert Deskins, Buddy Adams, Clay Crupper, Larry Hopkins.

The following members filed requests with the Clerk to have their names added as co-sponsors of Bills and Resolutions: Representative Donnermeyer, **HB 550;** Representative Jones, **HB 390;** Representative Richards, **HB 321, HB 402;** Representative Beshear, **HB 34, HB 35;** Representative Ackerson, **HB 303;** Representative Deskins, **HB 368;** Representative B. Richardson, **HB 98;** Representative Hancock, **HB 480, HB 481, HB 482.**

An announcement was made that the Appropriations and Revenue budget hearings would continue in Senate Chamber, 9:30 a.m. on February 19, 1976.

Adjournment

Representative B. Richardson moved that the House adjourn until 2:00 p.m., Thursday, February 19, 1976.

On the roll call the vote was yeas 53-B. Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Bevins, Blume, Boatwright, Brown, Carpenter, Craddock, Crupper, Cyrus, DeFalaise, Dietz, Donnermeyer, Dunn, Foster, Givhan, Hancock, Head, Holbrook, Hughes, Hurst, Kenton, Kidd, King, LeMaster, Lindsay, Little, May, McBee, McBride, McGill, Morgan, Muncy, Nett, O'Brien, Pearl, Richards, B. Richardson, Robinson, Sale, Schmidt, Siler, Stephens, Tobin, White, Wible, Wooden, Wright. Nays 9-Blythe, Deskins, Fitzgerald, Gray, Guenthner, Holloway, Imes, Mann, P. Richardson.

The motion to adjourn was adopted.

THURSDAY, FEBRUARY 19, 1976

THIRTY-FOURTH LEGISLATIVE DAY

The House was called to order by Speaker Kenton.

Prayer by Reverend Douglas Holley, Capital City Christian Church, Frankfort.

The roll was called. All present except Representative Clapp.

Representative Isler moved that absent members be granted leave of absence in accordance with the prevailing rules of the House. Agreed.

Representative Hughes moved that the reading of the Journal of February 18, 1976, be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HB 556, by Representative Kleier: AN ACT relating to income tax.

HB 557, by Representative McBee: AN ACT relating to cable television.

HB 558, by Representative Blume: AN ACT relating to public officials.

HB 559, by Representative B. Richardson: AN ACT relating to occupations and professions.

HB 560, by Representative B. Richardson: AN ACT relating to aeronautics.

HB 561, by Representative B. Richardson: AN ACT relating to electricians.

HB 562, by Representative B. Richardson: AN ACT relating to aviation.

HB 563, by Representative B. Richardson: AN ACT relating to the Kentucky Housing Corporation.

HB 564, by Representative B. Richardson: AN ACT relating to civil rights.

HB 565, by Representative B. Richardson: AN ACT relating to the Kentucky Department of Commerce.

HB 566, by Representative B. Richardson: AN ACT relating to insurance.

HB 567, by Representative B. Richardson: AN ACT relating to air commerce.

HB 568, by Representative B. Richardson: AN ACT relating to taxation.

HB 570, by Representative B. Richardson: AN ACT relating to billboard advertising.

HB 571, by Representative B. Richardson: AN ACT relating to workmen's compensation.

HB 572, by Representative B. Richardson: AN ACT relating to aeronautics.

HB 573, by Representative B. Richardson: AN ACT relating to the Kentucky Airport Zoning Commission.

HB 574, by Representatives Kleier, Bendl, Benson, Blythe, McGill, and Wooden: AN ACT relating to emergency vehicles.

HB 575, by Representatives Wooden, Romines, Ackerson, Bendl, Benson, Blythe, Kidd, Kleier, McGill, and Siemens: AN ACT relating to elections.

HB 576, by Representatives Wooden, Ackerson, Bendl, Benson, Blythe, Kleier, McGill, Nett, and Romines: AN ACT relating to elections.

HB 577, by Representatives Wooden, Kleier, and McGill: AN ACT relating to optometrists.

HB 578, by Representatives Dawahare, Freeman, A. S. Adams, Blair, Cooper, Cyrus, Doss, Floyd, Gay, Little, Muncy, Stewart, R. A. Turner, Vincent, and White: AN ACT relating to severance tax revenue and its disbursement.

HB 579, by Representative Blandford: AN ACT relating to promotion of agriculture and horticulture.

HB 580, by Representative Ackerson: AN ACT relating to debtor-creditor relations.

HB 581, by Representative DeFalaise: AN ACT relating to traffic regulations.

HB 582, by Representative Nett: AN ACT relating to teacher certification.

HB 583, by Representatives Sale and Foster: AN ACT relating to taxes.

HB 584, by Representative Benson: AN ACT relating to social workers.

HB 585, by Representative King: AN ACT relating to city police and fire departments.

HB 586, by Representatives Rattliff and DeFalaise: AN ACT relating to reporting of compensation of General Assembly members and employes.

HB 587, by Representatives LeMaster, Fitzgerald, Arnold, Benson, Craddock, Deskins, Holbrook, Richards, Siemens, Stephens, and Wible: AN ACT relating to juvenile courts.

HB 588, by Representative Overstreet: AN ACT relating to dairy product marketing.

HR 56, by Representatives Wible and Blandford: A RESOLUTION honoring the Honorable Elmer L. Brown.

HJR 57, by Representatives Dawahare, A. S. Adams, and Doss: A JOINT RESOLUTION directing that Hazard Community College be converted to a four year institution.

Senate Message

Announcing passage of **HB 94, HB 217, SB 70, SB 106, SB 119,** and **SB 139.**

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Natural Resources: **HB 546.**

Appropriations and Revenue: **HB 547, HB 549, HB 553, SB 141, SB 167.**

Banking and Insurance: **SB 60**

Counties and Special Districts: **HB 545, HB 548, HB 551.**

Education: **HB 554.**

Health and Welfare: **HB 552.**

Judiciary-Courts: **SB 159.**

Judiciary-Statatues: **HB 550, SB 17.**

Public Utilities and Transportation: **HB 555, HR 55, SB 65.**

Report of Committees

The Committee on Agriculture and Natural Resources reported **HB 1,** with Committee Amendments attached thereto, with the expression of opinion that the same should pass. Ordered referrred to the Committee on Rules.

The Committee Amendment No. 2 to **HB 1** is as follows:

Amend printed copy of House Bill 1, on page 1, after line 9 by adding the following:

"Section 2. KRS 355.9-307 is hereby amended to read as follows:

(1) A buyer in ordinary course of business (subsection (9) of KRS 355.1-201) other than a person buying farm products from a person engaged in farming operations takes free of a security interest created by his seller even though the security interest is perfected and even though the buyer knows of its existence.

(2) If any tobacco crop subject to the lien of a security interest is sold at public auction through a duly licensed tobacco warehouse in the ordinary course of business, a bona fide purchaser for value of such crop shall take title thereto free and clear of any such lien, and the warehouseman selling such tobacco crop shall not be liable to the holder of such lien, unless written notice by registered mail of such lien and the amount thereof, the name and address of the debtor and proper identification of the property subject to lien, are given to the tobacco warehouseman prior to the payment of the proceeds of sale to the owner or producer of such tobacco crop.

(3) In the case of consumer goods and in the case of farm equipment having an original purchase price not in excess of $500 (other than fixtures, see KRS 355.9-313), a buyer takes free of a security interest even though perfected if he buys without knowledge of the security interest, for value and for his own personal, family or household purposes or his own farming operations unless prior to the purchase the secured party has filed a financing statement covering such goods.

(4) If any registered breed of horse, the racing of which is regulated by KRS Chapter 230, subject to the lien of a security interest is sold at public auction in the ordinary course of business by an organization engaged in the business of selling such horses at public auction, a bona fide purchaser for value of such horse shall take title thereto free and clear of any such lien, and the organization selling such horse shall not be liable to the holder of such lien, unless written notice by registered mail of such lien and the amount thereof, the name and address of the debtor and proper identification of the horse subject to lien are given to the organization prior to the time of sale."

The Committee on Agriculture and Natural Resources reported **HB 362,** HB 469, and **HR 44** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 362, AN ACT relating to agricultural seeds.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 250.040 is amended to read as follows:

(1) Except as provided in subsections (2) and (3) of this section, every lot of agricultural seeds, when in bulk or a container of one (1) pound or more, or in the case of tobacco seed of *one-twelfth (1/12)* [one-quarter (1/4)] ounce or more, shall have affixed, in a conspicuous place on the exterior of the container of the seeds, a label in plainly written or printed English, in a manner prescribed by the director, stating:

(a) The name of the kind and variety for each agricultural seed component present in excess of five percent (5%) of the whole and the percentage by weight of each. Provided, that the director may by regulation omit the requirement for variety designation for those kinds of seeds not commonly sold by variety name, and

if the person labeling the seed does not know and is unable to determine the variety, the term "Variety Unknown" may be used in lieu of the variety designation. Hybrids shall be labeled as hybrids;

(b) Lot number or other lot identification;

(c) Percentage by weight of all weed seeds;

(d) Percentage by weight of inert matter;

(e) Percentage by weight of agricultural seeds other than those required to be on the label;

(f) The name and rate of occurrence per pound of noxious weed seed present; and

(g) For each named agricultural seed;

1. Percentage of germination, exclusive of hard seed;

2. Percentage of hard seeds, if present;

3. Origin, state or foreign country, if known. If the origin is unknown, this fact shall be stated;

(4) The calendar month and year in which the germination test was completed; and

5. Name and address of the person who labeled the seed, or who sells, offers, or exposes the seed for sale within this state.

[(a) The commonly accepted name of the seeds;

(b) The approximate percentage by weight of purity, which means the freedom of the seeds from inert matter and from other seeds distinguishable by their appearance;

(c) The approximate total percentage by weight of weed seeds;

(d) The name and approximate number per ounce of each kind of noxious weed seeds present, per ounce of agricultural seeds;

(e) The approximate percentage of germination of agricultural pure seeds designated, together with the month and year the seeds were tested;

(f) The full name and address of the seller of the seed; and

(g) The name of the state where the seed was grown, and if this is unknown, a statement to that effect.]

(2) The seal of certification of the Kentucky seed improvement association approved by the director of the Kentucky agricultural experiment station shall be accepted in lieu of the written or printed tag or label required herein.

(3) A gummed label approved by the director of the Kentucky agricultural experiment station shall be accepted on packages of uncertified tobacco seed in lieu of the written or printed tag or label required herein. Each package of uncertified tobacco seed shall have clearly written or printed on the container the name and address of the seedsman, kind and variety of seed, approximate percentage of pure seed, approximate percentage of germination and the month and year the germination test was made. This test shall be made during the nine (9) month period just prior to the date the seed is offered for sale.

(4) It shall be unlawful to sell or offer for sale tobacco seed that have been grown in one year, and commingled with those grown in any other year.

Section 2. KRS 250.070 is amended to read as follows:

(1) The labels specified in KRS 250.040 [to 250.060] shall be purchased from the director or his agent. Prices of the labels shall be *twelve cents (12¢)* [eight cents (8¢)] each for one hundred (100) pound labels, *ten cents (10¢)* [six cents (6¢)] each for seventy-five (75) pound labels, *eight cents (8¢)* [four cents (4¢)] each for fifty (50) pound labels and *four cents (4¢)* [two cents (2¢)] each for twenty-five (25) pound labels for alfalfa, sweet clover and all grass and clover seeds or mixtures of any of these, and *eight cents (8¢)* [four cents (4¢)] each for one hundred (100) pound labels, *six cents (6¢)* [three cents (3¢)] each for seventy-five (75) pound labels, *four cents (4¢)* [two cents (2¢)] each for fifty (50) pound labels, and *two cents (2¢)* [one cent (1¢)] each for twenty-five (25) pound labels [,] for all other agricultural seeds except tobacco. The gummed labels for uncertified tobacco seed shall be furnished for *two cents (2¢)* [one cent (1¢)] each.

(2) The director may permit a seedsman, labeler of seed, to provide his own labels in lieu of labels furnished by the director and pay a quarterly fee equivalent to that which would have been paid had the director furnished labels. The procedure for obtaining a permit and the responsibilities of the permit holders shall be established by regulation promulgated by the director. Permits shall be revoked if the director determines that the permit holder is not complying with the provisions of KRS 250.020 to 250.190.

Section 3. KRS 250.100 is amended to read as follows:

The director or his agents shall enforce and carry out the provisions of KRS 250.020 to 250.170. The director or his agent, upon notice to the seed trade of this state, may adopt [such] regulations *establishing a maximum weed seed content, the maximum permitted number of noxious weed seed, a minimum germination percentage, the maximum period in which seed may be sold after the germination test date, the manner in which treated seed are to be labeled, and other such regulations* as may be deemed necessary to secure the efficient enforcement of KRS 250.020 to 250.170.

Section 4. KRS 250.050 and KRS 250.060 are repealed.

HB 469, AN ACT relating to state owned wildlife management areas.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 150 IS CREATED TO READ AS FOLLOWS:
Kentucky residents shall be given precedence over nonresidents for hunting, fishing, or other uses on state owned wildlife management areas.

HR 44, A RESOLUTION memorializing the Congress and President of the United States to limit beef import.

WHEREAS, depressed prices have characterized the beef industry in recent years; and

WHEREAS, the high level of beef imports increases the supply and forces down the price received by American beef operators; and

WHEREAS, a continuation of these abnormally low prices will force many of our farmers out of business and create further disturbances in our economic system; and

WHEREAS, the American consumer can ill afford greater dependence in future years on foreign supplies of products as illustrated by the recent experience with the oil crisis;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Congress and President of the United States are hereby memorialized to develop appropriate steps to insure the viability of the American beef industry by limiting beef imports.

Section 2. That a copy of this resolution be sent to the President, Kentucky's Congressional delegation, and the Secretary of Agriculture.

The Committee on Counties and Special Districts reported **HB 355, HB 369,** and **HB 423** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 355, AN ACT relating to the closing of public offices.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 61.160 is amended to read as follows:
Public offices in counties containing a city of any class may close any one (1) work day of any week, *or any fraction of the work day.*

HB 369, AN ACT relating to water districts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 74.020 is amended to read as follows:

(1) A water district shall be administered by a board of commissioners which shall control and manage the affairs of the district. The term of each commissioner is four (4) years, except as provided in this section:

(a) If a district lies wholly within a single county, or operates as a single county district as provided in paragraph (c) of this subsection, the board of commissioners shall consist of three (3) residents of the district, or of any incorporated or unincorporated area served by the district in the county in which the district was originally established, who shall be appointed by the county judge with the approval of the fiscal court. Initial appointments shall be for terms of two (2), three (3) and four (4) years, as designated by the court.

Commissioners serving under appointments June 16, 1966 shall continue to serve until the end of their respective terms.

(b) Except as provided in paragraph (c) of this subsection, if a district formed in a single county extends its area to include territory in an adjacent county as provided by KRS 74.115, the board of commissioners shall be appointed by the county judges with the approval of the fiscal courts of the concerned counties as follows: in two (2) county districts, three (3) members from the original district and two (2) members from the extended portion of the district; for extensions into three (3) or more counties, the respective county judges, with the approval of the fiscal courts, shall appoint, in addition to the existing membership of the commission, two (2) members from the original one-county district and two (2) members from the newly extended portion of the district. Orders establishing the extension shall provide for the staggering of initial terms in an equitable manner.

(c) If a single county district administered as provided in paragraph (a) hereof shall acquire an existing water or gas distribution system serving an area which extends beyond the boundaries of the district into another county, *or if a district formed in a single county extends its area to include territory in an adjacent county as provided by KRS 74.115,* it may operate the distribution system so acquired, *or extended,* provided the area served outside the county shall be deemed to be a minor portion of the total area served by the district, and provided the fiscal court of the county containing such minor portion of the total area shall have agreed to the acquisition *or to the extension* of the distribution system. If less than twenty-five per cent (25%) of the total assets of the distribution system are located within the county outside of the boundaries of the district, it will be conclusively presumed that said district comes within the terms of this subsection.

(2) Vacancies shall be filled by the same appointing authority which is empowered to make the original appointment. Vacancies resulting from cause other than expiration of the term shall be filled for the unexpired term only.

(3) The commission shall elect a chairman, secretary and treasurer. Each commissioner shall execute a bond, approved by the county court, conditioned on the faithful performance of the duties of his position.

(4) Each commissioner shall receive an annual salary of not more than thirty-six hundred dollars ($3600), which shall be paid out of the water district fund. In the case of single-county districts, which shall be deemed to include districts described in paragraph (c) of subsection (1) of this section, the salary shall be fixed by the county judge with the approval of the fiscal court; in multi-county districts it shall be fixed by the agreement between the county judges with the approval of their fiscal courts. In fixing and approving the salary of the commissioners, the county judge and the fiscal court shall take into consideration the financial condition of the district and its ability to meet its obligations as they mature.

HB 423, AN ACT relating to the salaries of county officials.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 64.527 is amended to read as follows:

In order to equate the compensation of commonwealth's attorneys, county judges, county attorneys, county clerks, circuit clerks, sheriffs, *coroners* and jailers with the purchasing power of the dollar, the department of commerce shall compute by the second Friday in February of every year the annual increase or decrease in the consumer price index of the preceding year by using 1949 as the base year in accordance with section 246 of the constitution of Kentucky which provides that the above elected officials shall be paid at a rate no greater than $7,200 per annum. The department of commerce shall notify the appropriate governing bodies charged by law to fix the compensation of the above elected officials of the annual rate of compensation to which the elected officials are entitled pursuant to the increase or decrease in the consumer price index. Upon notification from the department of commerce, the appropriate governing body may set the annual compensation of the above elected officials at a rate no greater than that stipulated by the department of commerce.

The committee Amendment to **HB 423** is as follows:

Amend printed copy of House Bill 423, on page 1, line 5, by inserting between "sheriffs," and the word "*coroners*" the words "*justices of the peace, county commissioners,*"

The Committee on Health and Welfare reported **HB 466,** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 466, AN ACT relating to an office for Geriatrics-Gerontology in the Department for Human Resources.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 194 IS CREATED TO READ AS FOLLOWS:

(1) There shall be established in the department for human resources an office of Geriatrics-Gerontology. The office shall be administered by a recognized authority in such disciplines who shall have completed a doctorate degree in gerontology from an accredited college or university and who shall have a minimum of two (2) years of professional experience in working with older persons. Such administrator shall be appointed by the governor within sixty (60) days after the effective date of this Act from a list of three (3) nominees submitted by a committee composed of representatives from the University of Kentucky College of Social Professions, the University of Kentucky Medical School, the University of Louisville Kent School of Social Work, and the University of Louisville Medical School.

(2) The Office of Geriatrics-Gerontology shall stimulate the inauguration and continuance of courses in geriatrics and gerontology in the universities and community colleges funded by the Commonwealth of Kentucky.

(3) The administrator of the office shall cooperate with the medical schools, the schools of social work, the schools of nursing and such disciplines within the community colleges and universities as deemed applicable to educate the students therein concerning the processes of aging and the conditions, mental and physical, attendant upon aging. The office shall seek the cooperation of appropriate authorities within such universities and community colleges to draw from the several disciplines within each school to establish and conduct such courses. The administrator of the office shall be available for consultation to such universities and community colleges.

(4) To carry out the purposes of this Act, there is appropriated to the department for human resources out of the General Fund in the State Treasury the sum of $25,000 for the 1976-77 fiscal year and the sum of $25,000 for the 1977-78 fiscal year.

The Committee Amendment to **HB 466** is as follows:

Amend printed copy of House Bill 466, on page 1, line 7, by adding after the word "gerontology" the words "or related disciplines with an emphasis in gerontology."

and on page 1, line 10, by adding after the words "older persons", the following sentence "If such authority with a doctorate degree in gerontology or related disciplines with an emphasis in gerontology cannot be located the office shall be administered by a recognized authority with a master's degree in gerontology or related disciplines with an emphasis in gerontology from an accredited college or university and who shall have a minimum of two (2) years of professional experience in working with older persons."

The Committee on Labor and Industry reported **HB 100, HB 107, HB 122** with Committee Substitute attached thereto, **HB 134, HB 346,** and **HB 313** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 100, AN ACT relating to workmen's compensation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

A new section of KRS Chapter 342 is created to read as follows:

(1) For the purposes of this chapter an owner or owners of a business, including partners of a partnership owning a business, whether or not employing any other person to perform a service for hire, shall be included within the meaning of the term employe if such owner, owners, or partners elect to come under the provisions of this chapter and provide the insurance required thereunder. Nothing in this section shall be construed to limit the responsibilities of such owners or partners to provide coverage for their employe, if any, required under this chapter.

(2) When an owner, owners or partners have elected to be included as employes such shall be accomplished by the issuance of an appropriate endorsement to a Workmen's Compensation insurance policy.

HB 107, AN ACT relating to workmen's compensation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 342.316 is amended to read as follows:

(1)(a) The employer liable for compensation for occupational disease shall be the employer in whose employment the employe was last exposed to the hazard of the occupational disease during any period in which this section is applicable to a coal mine, an operator who acquired it or substantially all of its assets from a person who was its operator on and after January 1, 1973, shall be liable for, and secure the payment of, the benefits which would have been payable by the prior operator under this section with respect to miners previously employed in the mine if it had not been acquired by such later operator. At the same time, however, this subsection does not relieve the prior operator of any liability under this section. Also, it does not affect whatever rights the later operator might have against the prior operator. Said employer shall have the right to contribution from each previous employer, as determined in an independent civil action, wherein the employe was similarly exposed to the hazard of said occupational disease, in a sum equal to the ratio that each exposure employment time bears to the total exposure employment time except as otherwise provided in paragraph (a) of subsection (13) of this section.

(b) The time of the beginning of compensation payments shall be the date of the employe's last injurious exposure to the cause of the disease, or the date of actual disability, whichever is later.

(2)(a) The procedure with respect to the giving of notice and determination of claims in occupational disease cases and the compensation and medical benefits payable for disability or death due to such disease shall be the same as in cases of accidental injury or death under the general provisions of this chapter except that notice of claim shall be given to the employer as soon as practicable after the employe first experiences a distinct manifestation of an occupational disease in the form of symptoms reasonably sufficient to apprise him that he has contracted such disease, or a diagnosis of such disease is first communicated to him, whichever shall first occur.

(b) The procedure with respect to filing of *coal worker's pneumoconiosis or silicosis* claims shall be as follows:

1. The application shall set forth the work history of the applicant with a concise description of injurious exposure to a specific occupational disease together with the names and addresses of employer or employers with the approximate date of employment and shall also include with the application two (2) written medical reports supporting his claim. These medical reports shall be made on the basis of comprehensive clinical examinations and shall contain full and complete statements of the results thereof. The reports shall be made by duly licensed physicians. The clinical examinations shall include X-ray examinations. However, the failure of an X-ray examination to disclose the presence of an occupational disease shall not affect the legal presumption referred to in subsection (5) of this section.

2. The filing of a properly executed application for adjustment of claim, accompanied by the two (2) medical reports described in subparagraph 1. of this paragraph, shall satisfy the requirements of the presumptive clause set out in subsection (5) of this section and the burden of proof shall immediately thereafter shift to the employer and the special fund.

3. Immediately upon receipt of said application for adjustment of claim, the board shall notify the affected employer, the special fund and any other interested party of such claim and shall furnish them with a full and complete copy of the claim.

4. Upon receipt of notice of claim the employer, the special fund, and any other interested party shall have the right to have the claimant examined by competent medical experts, at their expense, including a reasonable sum for travel. After said examination, the claimant or his representative, shall be furnished a copy of said medical report within a reasonable time.

5. Within sixty (60) days of the filing of the claim the employer, the special fund, and any other interested party shall notify the board and the claimant whether or not the claim will be resisted. If the claim is not resisted, then the board shall within ten (10) days enter an order and award for the claimant. If the claim is resisted, the board shall set a date for a hearing and shall notify all parties thereof. In litigated claims the regular procedures prescribed by the workmen's compensation board shall be followed.

(3) The right to compensation under this chapter for disability resulting from an occupational disease shall be forever barred unless a claim is filed with the workmen's compensation board within three (3) years after the last injurious exposure to the occupational hazard or after the employe first experiences a distinct manifestation of an occupational disease in the form of symptoms reasonably sufficient to apprise him that he has contracted the disease, whichever shall last occur; and if death results from the occupational disease within said period unless a claim therefor be filed with the workmen's compensation board within three (3) years after such death; *Provided, however, in cases in which the nature of the disease or its relationship to the employment is not known to the employe, or his dependents in the event of his being deceased, the time for*

filing a claim shall not begin to run until the employe or his dependents know, or by the exercise of reasonable diligence should know, of the existence of the disease and its possible relationship to his employment and sustains disability under this act; Provided, however, That notice of such claim shall be deemed waived in case of disability or death where the employer or his insurance carrier, voluntarily makes payment therefor, or, if the incurrence of the disease or the death of the employe, and its cause was known to the employer. [Provided, however, That the right to compensation for any occupational disease shall be forever barred unless a claim is filed with the workmen's compensation board within five (5) years from the last injurious exposure to the occupational hazard, except that, in cases of radiation disease, a claim must be filed within 20 years from the last injurious exposure to the occupational hazard.]

(4) The amount of compensation payable for disability due to occupational disease or for death from such disease, and the time and manner of its payment, shall be the same as provided for accidental injury or death under the general provisions of the workmen's compensation act, but in no event to exceed such amounts as were in effect at the time of the last injurious exposure, and provided further, that the time of the beginning of compensation payments shall be the date of the employe's last injurious exposure to the cause of the disease, or the date of actual disability, whichever is later, and provided further, that in case of death where the employe has been awarded compensation or made timely claim within the period provided for in this section, an employe has suffered continuous disability to the date of his death occurring at any time within 20 years from the date of disability, his dependents, if any, shall be awarded compensation for his death as provided for under the general provisions of the workmen's compensation act and in this section.

(5) Where the occupational disease is a compensable pneumoconiosis and there has been employment exposure for 10 years or more to an industrial hazard sufficient to cause the disability of pneumoconiosis there shall be a rebuttable presumption that the disability or death was due to the compensable pneumoconiosis.

(6) Where the employe is suffering or suffered from a chronic dust disease of the lung which (a) when diagnosed by chest roentgenogram, yields one or more large opacities (greater than one (1) centimeter (0.3937") in diameter) and would be classified in category A, B, or C in the international classification of radiographs of the pneumoconioses by the international labor organization, (b) when diagnosed by biopsy or autopsy, yields massive lesions in the lung, or (c) when diagnosis is made by other means, would be a condition which could reasonably be expected to yield results described in paragraph (a) or (b) if diagnosis had been made in the manner prescribed in paragraph (a) or (b), then there shall be an irrebuttable presumption that he is totally disabled due to pneumoconiosis or that his death was due to pneumoconiosis, as the case may be.

(7) In case of disability or death from silicosis, coal workers' pneumoconiosis, or any other compensable pneumoconiosis, complicated with tuberculosis of the lungs, pulmonary emphysema or other pulmonary dysfunction and there has been employment exposures to harmful dust or industrial hazards reasonably competent to produce such accompanying disease or dysfunction, there is a rebuttable legal presumption that all resultant disability therefrom is work related and compensable, and compensation shall be payable as for the uncomplicated disease, provided, however, that the disease or dysfunction was an essential factor in causing such disability or death.

(8) If an autopsy has been performed, no testimony relative thereto shall be competent unless the employer or his representative has available findings and reports of the pathologist or doctor who performed the autopsy examination.

(9) No compensation shall be payable for occupational disease if the employe at the time of entering the employment of the employer by whom compensation would otherwise be payable, falsely represented himself, in writing, as not having been previously disabled, laid off, or compensated in damages or otherwise, because of such disease, or failed or omitted truthfully to state to the best of his knowledge, in answer to written inquiry made by the employer, the place, duration and nature of previous employment, or, to the best of his knowledge, the previous state of his health.

(10) No compensation for death from occupational disease shall be payable to any person whose relationship to the deceased, which, under the provisions of this chapter would give right to compensation, arose, subsequent to the beginning of the first compensable disability, save only to after-born children of a marriage existing at the beginning of such disability.

(11) Whenever any claimant misconceives his remedy and files an application for adjustment of claim under the general provisions of this chapter and it is subsequently discovered, at any time before the final disposition of such cause, that the claim for injury, disability or death which was the basis for such application should properly have been made under the provisions of this section, then the application so filed may be amended in form or substance, or both, to assert a claim for such injury, disability or death under the provisions of this section, and it shall be deemed to have been so filed as amended on the date of the original filing thereof, and such compensation may be awarded as is warranted by the whole evidence pursuant to the provisions of this chapter. When such amendment is submitted, further or additional evidence may be heard by the board when deemed necessary. Nothing this section contains shall be construed to be or permit a waiver of any of the provisions of this chapter with reference to notice of time for filing of a claim, but notice of filing a

claim, if given or done, shall be deemed to be a notice of filing of a claim under provisions of this chapter, if given or done within the time required herein.

(12) When an employe has an occupational disease that is covered by this chapter, the employer in whose employment he was last injuriously exposed to the hazard of the disease, and the employer's insurance carrier, if any, at the time of the exposure, shall alone be liable therefor, without right to contribution from any prior employer or insurance carrier; except as otherwise provided herein.

(13)(a) The employer liable for compensation for occupational diseases, other than silicosis or any other compensable pneumoconiosis, which developed to the point of disablement only after an exposure of five (5) or more years, or for silicosis and any other compensable pneumoconiosis, shall be the employer in whose employment the employe was last exposed to the hazard of such occupational disease. In those cases where disability or death are not conclusively proven to be the result of such last exposure all compensation shall be paid out of the special fund for all claims filed prior to January 1, 1973; and 75 per cent shall be paid by the special fund and 25 per cent by the employer for all claims filed thereafter. In all other cases of occupational diseases, other than silicosis or any other compensable pneumoconiosis, which developed to the point of disablement only after an exposure of five (5) or more years, or for silicosis and any other compensable pneumoconiosis, the compensation for disability or death due to such diseases shall be paid jointly by the employer and the special fund, and the employer shall be liable for sixty per cent (60%) of the compensation due and the special fund shall be liable for forty per cent (40%) of the compensation due. Provided, however, That when there is a joint award against the carrier or self-insured employer and the special fund under this section, all of the compensation awarded shall be paid from the special fund and the special fund shall be reimbursed by the carrier or self-insured employer on a quarterly basis and under such regulations as the board may provide for such purpose.

(b) In all claims for compensation partially payable by the special fund the commissioner of labor, as custodian of said fund, shall be designated as codefendant.

(c) In all agreements for the payment of compensation and awards the amount payable by the employer and the amount payable out of the special fund shall be separately stated. An award against the employer shall be for only the percentage of the total compensation which the employer is obligated to pay. A separate award shall be made against the special fund for the balance of the compensation payable. Nothing in this section shall prohibit the commissioner of labor as custodian of the special fund, from entering into agreements to pay the compensation for which it is liable; Provided, however, That where compensation is payable by both the employer and the special fund, the commissioner shall not enter into an agreement unless the employer is a party to the agreement.

HB 122, AN ACT relating to wages and hours.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 337.010 is amended to read as follows:

(1) As used in this chapter, unless the context requires otherwise:

(a) "Commissioner" means commissioner of labor; and

(b) "Department" means department of labor.

(2) As used in KRS 337.275 to 337.325, 337.340, 337.345, and 337.385 to 337.405 unless the context requires otherwise:

(a) "Wages" include any compensation due to an employe by reason of his employment, payable in legal tender of the United States or checks on banks convertible into cash on demand at full face value, subject to such allowances made in this chapter;

(b) "Employer" is any person who employs an employe and includes any person acting directly or indirectly in the interest of an employer in relation to an employe; and

(c) "Employe" is any person employed by or suffered or permitted to work for an employer, but shall not include:

(i) Any individual employed in agriculture;

(ii) Any individual employed in a bona fide executive, administrative, supervisory or professional capacity, or in the capacity of outside salesman, or as an outside collector as such terms as defined by administrative regulations of the Commissioner;

(iii) Any individual employed by the United States;

(iv) Any individual employed in domestic service in or about a private home. The provisions of this section shall include individuals employed in domestic service in or about the home of an employer where there is more than one domestic servant regularly employed;

(v) Any individual classified and given a certificate by the Commissioner of Labor showing a status of Learner, Apprentice, Handicapped Worker, Sheltered Work-Shop Employe, and Student under administrative procedures and administrative regulations as prescribed and promulgated by the Commissioner of Labor. This certificate shall authorize employment at such wages, less than the established fixed minimum fair wage rates, and for such period of time as shall be fixed by the Commissioner and stated in the certificate issued to such person;

(vi) [Employes of retail stores, service industries, hotels, motels, and restaurant operations whose average annual gross volume of sales made for business done is less than ninety five thousand dollars for the five preceding years exclusive of excise taxes at the retail level or if the] *Any* employe *who* is the parent, spouse, child, or other member of his employer's immediate family;

(vii) Any individual employed as a baby-sitter in employer's home, or live-in companion to a sick, convalescing or elderly person whose principal duties do not include housekeeping;

(viii) Any individual engaged in the delivery of newspapers to the consumer.

(d) "Agriculture" means farming in all its branches, including the cultivation and tillage of the soil, dairying, the production, cultivation, growing, and harvesting of any agricultural or horticultural commodity, the raising of livestock, bees, furbearing animals or poultry, and any practice, including any forestry or lumbering operations, performed on a farm in conjunction with such farming operations, including the preparation and delivery of produce to storage, or to market or to carriers for transportation to market;

(e) "Gratuity" means voluntary monetary contribution received by an employe from a guest, patron or customer for services rendered;

(f) "Tipped employe" means any employe engaged in an occupation in which he customarily and regularly receives more than $20 per month in tips;

(g) "U.S.C." means the United States Code.

(3) As used in KRS 337.505 to 337.550 unless the context requires otherwise:

(a) "Construction" includes construction, reconstruction, improvement, enlargement, alteration or repair of any public works by contract fairly estimated to cost more than $500;

(b) "Contractor" and "subcontractor" include any superintendent, foreman, or other authorized agent of any contractor or subcontractor who is in charge of the construction of the public works or who is in charge of the employment or payment of the employes of such contractor or subcontractor who are employed in performing the work to be done or being done by the contractor or subcontractor under the particular contract with any public authority;

(c)1. "Locality" means the county where the physical work upon public works is performed, except if there is not available in the locality a sufficient number of competent skilled laborers, workmen, mechanics, helpers, and apprentices to efficiently and properly construct the public works, "locality" shall include any other locality nearest the one in which the work of construction is to be performed and from which such available skilled laborers, workmen, mechanics, helpers, and apprentices may be obtained in sufficient number to perform the work.

2. "Locality" with respect to contracts advertised or awarded by the department of highways of this state shall be determined by the commissioner of highways. He may designate any number of counties as constituting a single locality. He may also designate all counties of the commonwealth as a single locality, but in no event, shall he designate less than an entire county as a locality.

(d) "Public authority" means any officer, board, or commission of this state, or any political subdivision or department thereof in the state, or any institution supported in whole or in part by public funds, including publicly owned or controlled corporations, authorized by law to enter into any contract for the construction of public works; and

(e) "Public works" includes all buildings, roads, streets, alleys, sewers, ditches, sewage disposal plants, waterworks and all other structures or work constructed under contract with this state, or any department or agency thereof, or political subdivision in the state.

(4) In any case where the federal government or any of its agencies furnishes by loans or grants any part of the funds used in constructing public works, and if the federal government or its agencies prescribe predetermined prevailing minimum wages to be paid to mechanics and laborers employed in the construction of such public works and where KRS 337.505 to 337.550 is also applicable, those wages in each classification which are higher shall prevail.

Section 2. KRS 337.275 is amended to read as follows:

(1) [Except as may otherwise be provided pursuant to KRS 337.275 to 337.325, 337.345, and 337.385 to 337.405, every] *Every* employer shall pay to each of his employes wages at a rate of not less than *$2.20* [$1.30] an hour, beginning July 1, *1976* [1974] increasing to *$2.30* [$1.60] an hour, beginning January 1, *1977* [1975]. *Provided, however, every employer of retail or service establishments, hotels, motels, and restaurant operations whose average annual gross volume of sales made for business done is less than ninety-five thousand dollars ($95,000), shall pay to each of his employes wages at a rate of not less than $1.60 an hour, beginning July 1,*

1976.

(2) For any employe engaged in an occupation in which he customarily and regularly receives more than twenty dollars per month in tips from patrons or others, the employer may pay as a minimum fifty percent of the wage prescribed in subsection (1) of this section if he can establish by his records that for each week where credit is taken, when adding tips received to wages paid, not less than the minimum rate prescribed in subsection (1) was received by the employe. [Provided, however, no employer shall under any circumstances pay a wage rate of less than 75¢ per hour under this subsection.] No employer shall use all or part of any tips or gratuities received by employes toward the payment of the statutory minimum hourly wage as required by this section. Nothing, however, shall prevent employes from entering into an agreement to divide tips or gratuities among themselves.

The Committee Substitute for **HB 122** is as follows:

HB 122, AN ACT relating to wages and hours.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 337.010 is amended to read as follows:

(1) As used in this chapter, unless the context requires otherwise:

(a) "Commissioner" means commissioner of labor; and

(b) "Department" means department of labor.

(2) As used in KRS 337.275 to 337.325, 337.340, 337.345, and 337.385 to 337.405 unless the context requires otherwise:

(a) "Wages" include any compensation due to an employe by reason of his employment, payable in legal tender of the United States or checks on banks convertible into cash on demand at full face value, subject to such allowances made in this chapter;

(b) "Employer" is any person who employs an employe and includes any person acting directly or indirectly in the interest of an employer in relation to an employe; and

(c) "Employe" is any person employed by or suffered or permitted to work for an employer, but shall not include:

(i) Any individual employed in agriculture;

(ii) Any individual employed in a bona fide executive, administrative, supervisory or professional capacity, or in the capacity of outside salesman, or as an outside collector as such terms as defined by administrative regulations of the Commissioner;

(iii) Any individual employed by the United States;

(iv) Any individual employed in domestic service in or about a private home. The provisions of this section shall include individuals employed in domestic service in or about the home of an employer where there is more than one domestic servant regularly employed;

(v) Any individual classified and given a certificate by the Commissioner of Labor showing a status of Learner, Apprentice, Handicapped Worker, Sheltered Work-Shop Employe, and Student under administrative procedures and administrative regulations as prescribed and promulgated by the Commissioner of Labor. This certificate shall authorize employment at such wages, less than the established fixed minimum fair wage rates, and for such period of time as shall be fixed by the Commissioner and stated in the certificate issued to such person;

(vi) [Employes of retail stores, service industries, hotels, motels, and restaurant operations whose average annual gross volume of sales made for business done is less than ninety five thousand dollars for the five preceding years exclusive of excise taxes at the retail level or if the] *Any* employe *who* is the parent, spouse, child, or other member of his employer's immediate family;

(vii) Any individual employed as a baby-sitter in employer's home, or live-in companion to a sick, convalescing or elderly person whose principal duties do not include housekeeping;

(viii) Any individual engaged in the delivery of newspapers to the consumer.

(d) "Agriculture" means farming in all its branches, including the cultivation and tillage of the soil, dairying, the production, cultivation, growing, and harvesting of any agricultural or horticultural commodity, the raising of livestock, bees, furbearing animals or poultry, and any practice, including any forestry or lumbering operations, performed on a farm in conjunction with such farming operations, including the preparation and delivery of produce to storage, or to market or to carriers for transportation to market;

(e) "Gratuity" means voluntary monetary contribution received by an employe from a guest, patron or customer for services rendered;

(f) "Tipped employe" means any employe engaged in an occupation in which he customarily and regularly receives more than $20 per month in tips;

(g) "U.S.C." means the United States Code.

(3) As used in KRS 337.505 to 337.550 unless the context requires otherwise:

(a) "Construction" includes construction, reconstruction, improvement, enlargement, alteration or repair of any public works by contract fairly estimated to cost more than $500;

(b) "Contractor" and "subcontractor" include any superintendent, foreman, or other authorized agent of any contractor or subcontractor who is in charge of the construction of the public works or who is in charge of the employment or payment of the employes of such contractor or subcontractor who are employed in performing the work to be done or being done by the contractor or subcontractor under the particular contract with any public authority;

(c)1. "Locality" means the county where the physical work upon public works is performed, except if there is not available in the locality a sufficient number of competent skilled laborers, workmen, mechanics, helpers, and apprentices to efficiently and properly construct the public works, "locality" shall include any other locality nearest the one in which the work of construction is to be performed and from which such available skilled laborers, workmen, mechanics, helpers, and apprentices may be obtained in sufficient number to perform the work.

2. "Locality" with respect to contracts advertised or awarded by the department of highways of this state shall be determined by the commissioner of highways. He may designate any number of counties as constituting a single locality. He may also designate all counties of the commonwealth as a single locality, but in no event, shall he designate less than an entire county as a locality.

(d) "Public authority" means any officer, board, or commission of this state, or any political subdivision or department thereof in the state, or any institution supported in whole or in part by public funds, including publicly owned or controlled corporations, authorized by law to enter into any contract for the construction of public works; and

(e) "Public works" includes all buildings, roads, streets, alleys, sewers, ditches, sewage disposal plants, waterworks and all other structures or work constructed under contract with this state, or any department or agency thereof, or political subdivision in the state.

(4) In any case where the federal government or any of its agencies furnishes by loans or grants any part of the funds used in constructing public works, and if the federal government or its agencies prescribe predetermined prevailing minimum wages to be paid to mechanics and laborers employed in the construction of such public works and where KRS 337.505 to 337.550 is also applicable, those wages in each classification which are higher shall prevail.

Section 2. KRS 337.275 is amended to read as follows:

(1) [Except as may otherwise be provided pursuant to KRS 337.275 to 337.325, 337.345, and 337.385 to 337.405, every] *Every* employer shall pay to each of his employes wages at a rate of not less than [$1.30 an hour, beginning July 1, 1974 increasing to] *$2.30* [$1.60] an hour, beginning January 1, *1977* [1975]. *Provided, however, every employer of retail or service establishments, hotels, motels, and restaurant operations whose annual gross volume of sales made for business done is less than two hundred thousand dollars ($200,000) and more than ninety five thousand dollars ($95,000), shall pay to each of its employes wages at a rate of not less than $1.75 an hour beginning January 1, 1977 increasing to $1.90 an hour, beginning January 1, 1978, and provided further, every employer of retail or service establishments, hotels, motels, and restaurant operations whose annual gross volume of sales made for business done is less than ninety-five thousand dollars ($95,000), shall pay to each of its employes wages at a rate of not less than $1.60 an hour, beginning January 1, 1977.*

(2) For any employe engaged in an occupation in which he customarily and regularly receives more than twenty dollars per month in tips from patrons or others, the employer may pay as a minimum fifty percent of the wage prescribed in subsection (1) of this section if he can establish by his records that for each week where credit is taken, when adding tips received to wages paid, not less than the minimum rate prescribed in subsection (1) was received by the employe. [Provided, however, no employer shall under any circumstances pay a wage rate of less than 75¢ per hour under this subsection.] No employer shall use all or part of any tips or gratuities received by employes toward the payment of the statutory minimum hourly wage as required by this section. Nothing, however, shall prevent employes from entering into an agreement to divide tips or gratuities among themselves.

HB 134, AN ACT relating to apprenticeship or training discrimination.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 344.070 is amended to read as follows:

It is an unlawful practice for an employer, labor organization, or joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs to discriminate against an individual because of his race, color, religion, national origin, sex, or age between forty and sixty-five in admission to or employment in, any program established to provide apprenticeship or other training. *Provided, however, age limitations for entry into bona fide apprenticeship programs approved by the Kentucky Supervisor of Apprenticeship and by the Kentucky Apprenticeship Council which is recognized by the Bureau of Apprenticeship and Training, U.S. Department of Labor, shall not be affected by the provisions of this section.*

HB 346, AN ACT relating to workmen's compensation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 342 is created to read as follows:

A Doctor of Chiropractic, licensed to practice under the provisions of KRS Chapter 312, shall have his services to employes covered by the workmen's compensation law paid for under the workmen's compensation provisions of KRS Chapter 342. An employe claiming benefits under the provisions of KRS Chapter 342 shall have the right to choose the services of a licensed Doctor of Chiropractic.

HB 313, AN ACT relating to deductions from wages.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 337.060 is amended to read as follows:

(1) [In case of any wage agreement arrived at through collective bargaining,] *N*[n]o employer shall wilfully with intent to defraud any person, withhold from any employe any part of the wage agreed upon. This section shall not make it unlawful for an employer to withhold or divert any portion of an employe's wage when the employer is authorized to do so by state or federal law or when a deduction is expressly authorized in writing by the employe to cover insurance premiums, hospital and medical dues, or other deductions not amounting to a rebate or deduction from the standard wage arrived at by collective bargaining or pursuant to wage agreement or statute, nor shall it preclude deductions for union dues where such deductions are authorized by joint wage agreements or collective bargaining contracts negotiated between employers and employes or their representative.

(2) Any employer who fails to pay wages earned within ten (10) days of the due date, or fails to timely apply proper payment of payroll deductions, shall be liable to the employe in an amount equal to three times the employe's gross wages for the period during which a violation under subsection (1) occurred, plus reasonable attorney's fee. This is in addition to any other available remedy.

The Committee on Health and Welfare reported **HB 226,** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and placed in the Calendar.

HB 226, AN ACT relating to sudden infant death syndrome.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 213 is created to read as follows:

(1) As used in this Act, unless the context requires otherwise:

(a) "Sudden infant death syndrome" means the death of an ostensibly healthy child who is two (2) weeks of age or older but less than three (3) years of age, which occurs suddenly and unexpectedly, with no known or apparent cause, and which remains unexplained after the performance of an autopsy.

Section 2. A new section of KRS Chapter 213 is created to read as follows:

(1) In order to substantially diminish and eliminate the occurrence of sudden infant death syndrome in the Commonwealth, a program is hereby established in the department for human resources. The purpose of this program shall be to study its characteristics, determine its incidence, require its reporting, provide means of public education, and thereby lead to effective control and to means of prevention, early identification and treatment.

(2) In instances where an ostensibly healthy child dies suddenly and unexpectedly with no known or apparent cause, as determined by a physician, an autopsy shall be performed and results reported to the department and to the parents or legal guardian of the child.

(3) The provisions of subsection (2) of this section shall not apply in the case of the death of a child whose parent or guardian is a member of a recognized religious organization whose teachings and tenets are contrary to the performance of an autopsy. In no event, however, shall an autopsy be performed pursuant to the provisions of subsection (2) of this section unless and until such parent or guardian has been informed of the provisions of subsections (2) and (3) of this section, and has had an opportunity to render notification of his objection to the performance of such autopsy.

(4) The secretary for human resources shall establish a statewide program which:

(a) Will establish and distribute criteria for the diagnosis and determination of the occurrence of sudden infant death syndrome to physicians, coroners, medical examiners, hospitals and public health officials;

(b) Will promulgate regulations as may be necessary in order to obtain in proper form all information relating to the occurrence of sudden infant deaths that is relevant and appropriate for the establishment of a reliable statistical index of the incidence, distribution, and characteristics of cases of sudden infant death syndrome;

(c) Will collect factual information regarding the characteristics and incidence of sudden infant death syndrome, and shall distribute that information to the general public in such form as to be appropriate for educational purposes and for the counseling of families, physicians and other persons affected by the occurrence of sudden infant death syndrome;

(d) Will cause appropriate services to be established and maintained for the reasonable notification and proper counseling of families, physicians and other persons affected by the occurrence of sudden infant death syndrome; and

(e) Will identify possible means of prevention, early identification and treatment and shall include outreach to inform the citizenry of the Commonwealth of possible means of prevention, early identification and treatment of sudden infant death syndrome.

(5) The secretary shall have the power to adopt, amend, or rescind such rules and regulations as deemed necessary or suitable for the proper administration of this Act.

The Committee Substitute for **HB 226** is as follows:

HB 226, AN ACT relating to sudden infant death syndrome.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 213 IS CREATED TO READ AS FOLLOWS:

(1) As used in this Act, unless the context requires otherwise:

(a) "Sudden infant death syndrome" means the death of an ostensibly healthy child who is two (2) weeks of age or older but less than three (3) years of age, which occurs suddenly and unexpectedly, with no known or apparent cause, and which remains unexplained after the performance of an autopsy.

SECTION 2. A NEW SECTION OF KRS CHAPTER 213 IS CREATED TO READ AS FOLLOWS:

(1) In order to obtain information which may be useful to research organizations studying the causes and incidence of the Sudden Infant Death Syndrome, a program is hereby established in the department for human resources. The purpose of this program shall be to obtain factual information concerning the characteristics, incidence, and distribution of the Sudden Infant Death Syndrome throughout the Commonwealth and to provide a means of public education concerning any research findings which may lead to the possible means of prevention, early identification and treatment of children susceptible to the Sudden Infant Death Syndrome.

(2) In instances where an ostensibly healthy child dies suddenly and unexpectedly with no known or apparent cause, as determined by a physician, an autopsy shall be performed within forty-eight (48) hours and the results reported to the department and to the parents or legal guardian of the child.

(3) The provisions of subsection (2) of this section shall not apply in the case of the death of a child whose parent or guardian is a member of a recognized religious organization whose teachings and tenets are contrary to the performance of an autopsy. In no event, however, shall an autopsy be performed pursuant to the provisions of subsection (2) of this section unless and until such parent or guardian has been informed of the provisions of subsection (2) and of this subsection, and has had an opportunity to render notification of his objection to the performance of such autopsy.

(4) In order to implement the provisions of this Act, the secretary for human resources shall:

(a) Promulgate regulations as may be necessary in order to obtain in proper form all information relating to the occurrence of sudden infant deaths which is relevant and appropriate for the establishment of a reliable statistical index of the incidence, distribution and characteristics of cases of the Sudden Infant Death Syndrome;

(b) Collect such factual information from physicians, coroners, medical examiners, hospitals and public health officials who have examined any child known or believed to have the Sudden Infant Death Syndrome;

(c) Make such factual information available to physicians, coroners, medical examiners, hospitals, public health officials and educational and institutional organizations conducting research as to the causes and incidence of the Sudden Infant Death Syndrome;

(d) Cause appropriate counseling services to be established and maintained for families affected by the occurrence of the Sudden Infant Death Syndrome; and

(e) Conduct educational programs to inform the general public of any research findings of educational and institutional organizations which may lead to the possible means of prevention, early identification and treatment of the Sudden Infant Death Syndrome.

The Committee on Rules reported **HB 37** with Committee Substitute attached thereto, **HB 71, HB 193, HB 343, HB 378** with Committee Amendment attached thereto, **HCR 5, HCR 6, HCR 23, HCR 42, SB 68,** and **SCR 17** have been posted for passage in Orders of the Day, February 20, 1976.

The Committee on Rules reported **HB 192,** with Committee Amendment attached thereto, has been recommitted to the Committee on Appropriations and Revenue.

The Committee on Rules reported **HB 315,** with Committee Amendment attached thereto, has been recommitted to the Committee on Education.

Posting of Bills and Resolutions for Consideration

Banking and Insurance: **HB 521.**

Business Organizations and Professions: **HB 540, HB 410.**

Cities: **HB 539.**

Counties and Special Districts: **HB 416, HB 514, SB 13.**

Highways and Traffic Safety: **HB 498.**

State Government: **HB 86, HB 300, HB 480, HB 481, HB 482, HB 487, HB 495, HB 499, HB 506, HB 507, HB 513, HB 523, HB 529, HB 538, HJR 46, HJR 47, SB 150.**

Calendar

HB 280, HB 258 with Committee Amendment attached thereto, **HB 368** with Committee Amendment attached thereto, **HB 396, HB 325, SB 33** with Committee Amendment attached thereto, **HB 431** with Committee Substitute attached thereto, HB 289, **HB 290, HB 407, HB 446, HB 479, SB 21, HB 271** with Committee Amendment attached thereto, **HB 205, HB 438** with Committee Substitute attached thereto, and **HB 22** with Committee Substitute attached thereto, taken from the Calendar and ordered read at length for the second time. Representative B. Richardson moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Motions, Petitions and Communications

Representative Wible moved that the rules be suspended for the purpose of reporting and acting upon a resolution. Agreed.

Representative Wible moved the adoption of the following **HR 56.**

HR 56, A RESOLUTION honoring the Honorable Elmer L. Brown.

WHEREAS, the Honorable Elmer L. Brown of Owensboro represented what was then the first representative district of Daviess County, Kentucky, in the House of Representatives in 1914; and

WHEREAS, as the youngest member of the House during that session, he bore the distinction of being the "Baby of the House"; and

WHEREAS, he has retired as city prosecutor for the city of Owensboro, after a career in public service of over 60 years; and

WHEREAS, he will visit the Capitol and the House of Representatives on February 19, 1976;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That February 19, 1976, be declared Elmer L. Brown Day in the House.

Section 2. That the Honorable Elmer L. Brown be honored by the House of Representatives by granting to him the privileges of the floor on that day.

Section 3. That the Honorable Elmer L. Brown be assigned three minutes on the day of his visit to address the members of this House.

Section 4. That the Clerk of the House is hereby directed to send a copy of this resolution to the Honorable Elmer L. Brown prior to his visit to the House on February 19, the day honoring him.

HR 56 was adopted by voice vote.

The Honorable Elmer L. Brown addressed the members of the House.

The following members filed Floor Amendments to Bills: Representative DeMarcus, Floor Amendment No. 4 to **HB 151,** Floor Amendment No. 5 to **HB 151;** Representative Kleier, Floor Amendment No. 1 to **HB 463;** Representative Romines, Floor Amendment No. 1 to **HB 437;** Representative Priddy, Floor Amendment No. 3 to **HB 193;** Representative Romines, Floor Amendment No. 2 to **HB 168;** Representative B. Richardson, Floor Amendment No. 1 to **HB 107,** Floor Amendment No. 1 to **HB 334.**

Representative B. Richardson moved that **HB 34,** with Committee Substitute attached thereto, be recommitted to the Committee on State Government. Agreed.

Representative Givhan moved that the Discharge Petition filed on **HB 390** be withdrawn. Agreed.

Representative Benson moved that **HB 390** be taken from the Committee on Appropriations and Revenue and sent to the Committee on Cities. Agreed.

Representative B. Richardson moved that **HB 141,** with Senate Amendment attached thereto, be placed in Orders of the Day, February 20, 1976. Agreed.

Orders of the Day

HB 288 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Pearl moved that **HB 288** be passed.

On the roll call the vote was yeas 77-Ackerson, B. Adams, J. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blandford, Blume, Boatwright, Brinkley, Brown, Bruce, Burnette, Carpenter, Clarke, Cooper, Craddock, Crupper, Cyrus, Dawahare, DeFalaise, DeMarcus, Denham, Dietz, Donnermeyer, Doss, Dunn, Floyd, Foster, Gray, Hardwick, Head, Holloway, Hopkins, Hughes, Isler, Jones, Kenton, Kidd, King, Kleier, Little, Mann, Mason, May, Maynard, McBee, McBride, McGill, Morris, Muncy, Nett, O'Brien, Overstreet, Pearl, Priddy, Rattliff, Richards, B. Richardson, Robinson, Romines, Sale, Schmidt, Siemens, Siler, Stephens, Tobin, Thomas, R. Turner, Vincent, Wells, Wible, Wooden, Wright, Yates. Nays 10-W. Allen, Blair, Deskins, Fitzgerald, Guenthner, Holbrook, Imes, Lindsay, Robinson, White.

HB 288 was passed and the title agreed to.

Representative Pearl moved that the vote by which **HB 288** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 264 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Maynard moved that **HB 264** be passed.

On the roll call the vote was yeas 86-Ackerson, A. S. Adams, J. Allen, Arnold, Bendl, Bennett, Benson, Bevins, Blair, Blandford, Blume, Boatwright, Brinkley, Brown, Bruce, Burnette, Carpenter, Clarke, Cooper, Craddock, Crupper, Cyrus, Dawahare, DeFalaise, DeMarcus, Deskins, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Floyd, Foster, Givhan, Gray, Guenthner, Hardwick, Head, Holbrook, Holloway, Hopkins, Hughes, Imes, Isler, Jones, Kenton, Kidd, King, Kleier, LeMaster, Lindsay, Little, Mann, Mason, May, Maynard, McBee, McBride, McGill, Morris, Muncy, Nett, O'Brien, Overstreet, Pearl, Priddy, Rattliff, Richards, B. Richardson, Robinson, Romines, Sale, Schmidt, Siemens, Siler, Stephens, Tobin, J. Turner, R. Turner, Vincent, White, Wible, Wooden, Wright, Yates. Nays 1-W. Allen.

HB 264 was passed and the title agreed to.

Representative Maynard moved that the vote by which **HB 264** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative B. Richardson moved that consideration of **HB 121** be deferred and that it retain its position in Orders of the Day. Agreed.

HB 262 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Guenthner moved the adoption of the following Floor Amendment No. 1 to **HB 262:**

Amend printed copy of House Bill 262, on page 1, line 9, after the "." add the following:

"*Provided however, nothing in this Act shall prohibit any person, corporation, unincorporated association, partnership, or business, owned or operated by any person who himself is not a holder of such license, from advertising as a plumbing or general contractor provided that he employs a licensed plumber to provide this service.*"

Agreed.

Representative Donnermeyer moved that **HB 262,** as amended, be passed.

On the roll call the vote was yeas 68-Ackerson, B. Adams, A. S. Adams, J. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blandford, Blume, Boatwright, Brinkley, Bruce, Clarke, Craddock, Cyrus, DeFalaise, DeMarcus, Dietz, Donnermeyer, Doss, Dunn, Gay, Givhan, Gray, Guenthner, Hardwick, Head, Holbrook, Holloway, Hopkins, Hughes, Imes, Isler, Kenton, Kidd, King, Kleier, LeMaster, Mann, Mason, Maynard, McBee, McBride, McGill, Morgan, Muncy, Nett, O'Brien, Overstreet, Pearl, Priddy, Rattliff, Richards, B. Richardson, Romines, Siemens, Siler, Tobin, R. Turner, Vincent, Wells, Wible, Wooden, Wright, Yates. Nays 14-W. Allen, Burnette, Carpenter, Cooper, Crupper, Denham, Deskins, Jones, Little, Robinson, Sale, Stephens, J. Turner, White.

HB 262, as amended, was passed and the title agreed to.

Representative Donnermeyer moved that the vote by which **HB 262,** as amended, was passed be rconsidered and said motion be postponed indefinitely. Agreed.

Representative B. Richardson moved that consideration of **HB 334** be deferred and that it retain its position in Orders of the Day. Agreed.

HB 24 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Donnermeyer moved that **HB 24** be passed.

On the roll call the vote was yeas 56-Ackerson, A. S. Adams, Bendl, Bennett, Benson, Bevins, Blair, Blandford, Blume, Brown, Crupper, Cyrus, Dawahare, DeFalaise, DeMarcus, Dietz, Donnermeyer, Dunn, Fitzgerald, Floyd, Gray, Guenthner, Hardwick, Head, Imes, Isler, Kenton, Kidd, King, Kleier, Mann, Maynard, McBee, McBride, McGill, Morgan, Morris, Muncy, Nett, O'Brien, Overstreet, Priddy, Robinson, Romines, Schmidt, Siemens, Siler, Stephens, Tobin, R. Turner, Wells, White, Wible, Wooden, Yates. Nays 31-B. Adams, J. Allen, W. Allen, Arnold, Beshear, Boatwright, Brinkley, Burnette, Carpenter, Clarke, Cooper, Denham, Deskins, Doss, Foster, Holbrook, Holloway, Hopkins, Hughes, Hurst, Jones, Lindsay, Little, Mason, May, Pearl, Richards, B. Richardson, J. Turner, Vincent, Wright.

HB 24 was passed and the title agreed to.

Representative Donnermeyer moved that the vote by which **HB 24** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative B. Richardson moved that **HB 102** be laid on the Clerk's desk. Agreed.

HB 116, with Committee Amendments attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Gray moved the adoption of the Committee Amendment No. 1 to **HB 116.** Agreed.

Representative Priddy moved the adoption of the Committee Amendment No. 2 to **HB 116.** Agreed.

Representative Priddy moved that **HB 116,** as amended, be passed.

On the roll call the vote was yeas 63-Ackerson, A. S. Adams, J. Allen, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blandford, Blume, Boatwright, Brinkley, Brown, Bruce, Clarke, Cyrus, Dawahare, DeFalaise, Deskins, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Floyd, Foster, Givhan, Gray, Guenthner, Hardwick, Head, Hopkins, Hughes, Isler, Kenton, Kidd, King, Kleier, LeMaster, Little, Mann, Mason, Maynard, McGill, Morgan, Morris, Muncy, Nett, O'Brien, Overstreet, Priddy, B. Richardson, Romines, Sale, Schmidt, Siemens, Siler, Vincent, Wible, Wooden, Wright, Yates. Nays 18-B. Adams, W. Allen, Arnold, Carpenter, Craddock, Crupper, DeMarcus, Denham, Gay, Hancock, Holbrook, McBee, McBride, Pearl, Robinson, Stephens, Tobin, R. Turner.

HB 116, as amended, was passed and the title agreed to.

Representative Priddy moved that the vote by which **HB 116,** as amended, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative B. Richardson moved that consideration of **HB 128** and HB 151 be deferred and that they retain their position in Orders of the Day. Agreed.

HB 239, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Kidd moved the adoption of the Committee Amendment No. 1 to **HB 239.**

On the roll call the vote was yeas 33-Bendl, Bennett, Benson, Boatwright, Brinkley, Brown, Carpenter, Craddock, DeFalaise, DeMarcus, Deskins, Donnermeyer, Dunn, Floyd, Gray, Hughes, Isler, Kidd, King, Kleier, Mann, McGill, Muncy, Nett, Rattliff, Romines, Siemens, Siler, Tobin, Vincent, Wooden, Wright, Yates. Nays 42-B. Adams, J. Allen, W. Allen, Arnold, Beshear, Bevins, Blandford, Blume, Burnette, Clarke, Cooper, Crupper, Cyrus, Dawahare, Doss, Foster, Freeman, Gay, Givhan, Guenthner, Hancock, Head, Holbrook, Hopkins, Imes, Jones, LeMaster, Little, Mason, May, McBee, McBride, Pearl, Richards, B. Richardson, Robinson, Sale, Schmidt, Stephens, Wells, White, Wible.

The Committee Amendment No. 1 to **HB 239** was defeated.

Representative Kidd moved the adoption of the following Floor Amendment No. 1 to **HB 239:**

Amend printed copy of House Bill 239, on page 1, line 3, between the words "in" and "counties" insert the following: "*Urban county governments and in*" and at the end of line 3 delete the word "[and]" and insert in lieu thereof following the word "first" the word "*or.*" so that the first sentence will read as amended as follows: "*In urban county governments and in* counties containing cities of the first *or* second class a purge of the voter registration list shall be conducted every two years."

Agreed.

Representative Kidd moved that **HB 239,** as amended, be passed.

On the roll call the vote was yeas 75-Ackerson, B. Adams, A. S. Adams, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blume, Boatwright, Binkley, Bruce, Burnette, Carpenter, Cooper, Craddock, Crupper, Cyrus, Dawahare, DeFalaise, DeMarcus, Denham, Deskins, Dietz, Donnermeyer, Doss, Dunn, Floyd, Foster, Givhan, Gray, Guenthner, Hancock, Holbrook, Holloway, Hopkins, Hughes, Imes, Isler, Jones, Kenton, Kidd, Kleier, LeMaster, Mann, Mason, May, McBride, McGill, Morgan, Morris, Muncy, Nett, O'Brien, Overstreet, Pearl, Priddy, Rattliff, Richards, B. Richardson, Robinson, Romines, Sale, Siemens, Siler, Tobin, R. Turner, Vincent, White, Wible, Wooden, Wright, Yates. Nays 10-J. Allen, W. Allen, Blandford, Brown, Clarke, Head, Lindsay, Little, McBee, Stephens.

HB 239, as amended, was passed and the title agreed to.

Representative Kidd moved that the vote by which **HB 239,** as amended, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 255 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

On the roll call the vote was yeas 79-Ackerson, B. Adams, J. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blandford, Blume, Boatwright, Brinkley, Brown, Bruce, Burnette, Carpenter, Clarke, Cooper, Craddock, Crupper, Cyrus, DeFalaise, Denham, Deskins, Dietz, Donnermeyer, Doss, Dunn, Floyd, Foster, Givhan, Gray, Guenthner, Hancock, Hardwick, Head, Holbrook, Holloway, Hopkins, Hughes, Hurst, Imes, Isler, Jones, Kenton, Kidd, King, Kleier, LeMaster, Little, Mason, May, McBee, McBride, McGill, Morgan, Morris, Muncy, Nett, O'Brien, Pearl, Priddy, Rattliff, Richards, B. Richardson, Romines, Sale, Schmidt, Stephens, Tobin, R. Turner, Vincent, Wells, White, Wible, Wooden, Wright, Yates. Nays 4-W. Allen, DeMarcus, Robinson, Siler.

HB 255 was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **HB 255** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative B. Richardson moved that consideration of **HB 278** be deferred and that it retain its position in Orders of the Day. Agreed.

HB 287 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage.

On the roll call the vote was yeas 85-Ackerson, B. Adams, A. S. Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Beshear, Bevins, Blair, Blandford, Blume, Boatwright, Brinkley, Brown, Bruce, Burnette, Carpenter, Cooper, Craddock, Crupper, Cyrus, Dawahare, DeFalaise, DeMarcus, Deskins, Dietz, Donnermeyer, Doss, Dunn, Floyd, Foster, Freeman, Gay, Givhan, Gray, Guenthner, Hancock, Hardwick, Head, Holbrook, Holloway, Hopkins, Hughes, Hurst, Imes, Isler, Jones, Kenton, Kidd, King, Kleier, LeMaster, Lindsay, Little, Mason, May, McBee, McBride, McGill, Morgan, Morris, Muncy, Nett, O'Brien, Overstreet, Priddy, Richards, B. Richardson, Robinson, Sale, Schmidt, Siemens, Siler, Stephens, Tobin, R. Turner, Vincent, Wells, White, Wible, Wooden, Wright, Yates. Nays 4-Benson, Clarke, Denham, Pearl.

HB 287 was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **HB 287** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 301 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Donnermeyer moved that **HB 301** be passed.

On the roll call the vote was yeas 65-Ackerson, A. S. Adams, W. Allen, Arnold, Bendl, Bennett, Benson, Bevins, Blair, Blandford, Blume, Boatwright, Brinkley, Bruce, Carpenter, Clarke, Cooper, Crupper, Dawahare, DeFalaise, DeMarcus, Deskins, Dietz, Donnermeyer, Doss, Dunn, Floyd, Foster, Freeman, Gay, Gray, Hancock, Hardwick, Head, Holbrook, Holloway, Hopkins, Hughes, Hurst, Isler, Jones, Kenton, Kidd, King, Kleier, LeMaster, Mason, McBee, McBride, McGill, Morgan, Morris, O'Brien, Priddy, Sale, Schmidt, Siemens, Stephens, Tobin, Vincent, Wells, Wible, Wooden, Wright, Yates. Nays 20-B. Adams, J. Allen, Beshear, Burnette, Craddock, Cyrus, Givhan, Guenthner, Imes, Lindsay, Little, Muncy, Overstreet, Pearl, Rattliff, Richards, B. Richardson, Robinson, R. Turner, White.

HB 301 was passed and the title agreed to.

Representative Donnermeyer moved that the vote by which **HB 301** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

SB 102 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Bruce moved the adoption of the following Floor Amendment No. 1 to **SB 102:**

Amend printed copy of Senate Bill 102, on page 1, line 8, after "(10)" delete "or" and inserting in lieu thereof a ",".

and on page 2, line 8, after "(11)" insert therein "*or (12)*".

Agreed.

Representative Bruce moved the adoption of the following Floor Amendment No. 2 to **SB 102:**

Amend printed copy of Senate Bill 102, on page 7, line 20, delete the word "securities".

Agreed.

Representative Pearl moved that **SB 102,** as amended, be passed.

On the roll call the vote was yeas 87-Ackerson, B. Adams, A. S. Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blandford, Blume, Boatwright, Brinkley, Brown, Bruce, Burnette, Carpenter, Clarke, Cooper, Craddock, Cyrus, DeFalaise, DeMarcus, Denham, Deskins, Dietz, Donnermeyer, Doss, Dunn, Floyd, Foster, Freeman, Gay, Givhan, Gray, Guenthner, Hancock, Hardwick, Head, Holbrook, Holloway, Hopkins, Hughes, Hurst, Imes, Isler, Jones, Kenton, Kidd, King, Kleier, LeMaster, Lindsay, Little, Mason, May, McBee, McBride, McGill, Morgan, Morris, Muncy, Nett, O'Brien, Overstreet, Pearl, Priddy, Rattliff, Richards, B. Richardson, Robinson, Romines, Sale, Schmidt, Siemens, Siler, Stephens, Tobin, R. Turner, Vincent, Wells, Wible, Wooden, Wright, Yates. Nays 0.

SB 102, as amended, was passed and the title agreed to.

Representative Pearl moved that the vote by which **SB 102,** as amended, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 62, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hancock moved the adoption of the committee Amendment to **HB 62.** Agreed.

Representative Morris moved that **HB 62,** as amended, be passed.

On the roll call the vote was yeas 81-Ackerson, B. Adams, A. S. Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blandford, Blume, Boatwright, Brinkley, Brown, Burnette, Carpenter, Craddock, Cyrus, DeFalaise, DeMarcus, Denham, Deskins, Dietz, Donnermeyer, Doss, Dunn, Floyd, Foster, Freeman, Gay, Givhan, Gray, Guenthner, Hancock, Hardwick, Head, Holbrook, Holloway, Hopkins, Hughes, Hurst, Isler, Jones, Kenton, Kidd, King, Kleier, LeMaster, Lindsay, Mann, Mason, May, McBee, McBride, McGill, Morgan, Morris, Muncy, Nett, O'Brien, Overstreet, Pearl, Priddy, Rattliff, Richards, Robinson, Romines, Sale, Schmidt, Siemens, Siler, Stephens, Tobin, R. Turner, Vincent, Wells, Wible, Wooden, Wright, Yates. Nays 1-Clarke.

HB 62, as amended, was passed and the title agreed to.

Representative Morris moved that the vote by which **HB 62,** as amended, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 252 taken from Orders of the Day and ordered read at length for the third time. Representative Lindsay moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hopkins moved that **HB 252** be passed.

On the roll call the vote was yeas 83-Ackerson, B. Adams, A. S. Adams, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blandford, Blume, Blythe, Boatwright, Brinkley, Brown, Burnette, Carpenter, Craddock, Cyrus, Dawahare, DeFalaise, DeMarcus, Denham, Deskins, Dietz, Donnermeyer, Doss, Dunn, Floyd, Foster, Freeman, Gay, Givhan, Gray, Guenthner, Hancock, Hardwick, Head, Holbrook, Holloway, Hopkins, Hughes, Hurst, Isler, Jones, Kenton, Kidd, King, Kleier, LeMaster, Lindsay, Mason, May, McBee, McBride, McGill, Morgan, Morris, Muncy, Nett, O'Brien, Overstreet, Pearl, Priddy, Rattliff, Richards, Robinson, Romines, Sale, Schmidt, Siemens, Siler, Stephens, Tobin, R. Turner, Vincent, Wells, White, Wible, Wooden, Wright, Yates. Nays 0.

HB 252 was passed and the title agreed to.

Representative Hopkins moved that the vote by which **HB 252** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 270, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by Title only and placed upon its passage. Agreed by a majority of members elected.

Representative Rattliff moved the adoption of Committee Amendment No. 1 to **HB 270.** Agreed.

Representative Rattliff moved that **HB 270,** as amended, be passed.

On the roll call the vote was yeas 81-Ackerson, B. Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blandford, Blume, Blythe, Boatwright, Brinkley, Brown, Bruce, Burnette, Carpenter, Craddock, Cyrus, DeFalaise, DeMarcus, Denham, Deskins, Dietz, Donnermeyer, Doss, Dunn, Floyd, Foster, Givhan, Gray, Guenthner, Hancock, Hardwick, Head, Holbrook, Holloway, Hopkins, Hughes, Imes, Isler, Kenton, Kidd, King, Kleier, LeMaster, Lindsay, Little, Mason, May, Maynard, McBee, McBride, McGill, Morgan, Morris, Muncy, O'Brien, Overstreet, Pearl, Priddy, Rattliff, Richards, B. Richardson, Robinson, Romines, Sale, Siemens, Siler, Stephens, Tobin, R. Turner, Vincent, Wells, White, Wible, Wooden, Wright, Yates. Nays 2-Clarke, Jones.

HB 270, as amended, was passed and the title agreed to.

Representative Rattliff moved that the vote by which **HB 270,** as amended, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 358 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hurst moved that **HB 358** be passed.

On the roll call the vote was yeas 80-Ackerson, B. Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blandford, Blume, Blythe, Boatwright, Brinkley, Bruce, Burnette, Carpenter, Clarke, Craddock, Cyrus, DeFalaise, DeMarcus, Denham, Deskins, Dietz, Donnermeyer, Doss, Dunn, Foster, Givhan, Gray, Guenthner, Hancock, Hardwick, Head, Holbrook, Hopkins, Hughes, Hurst, Imes, Isler, Jones, Kenton, Kidd, King, Kleier, LeMaster, Lindsay, Mason, May, Maynard, McBee, McBride, McGill, Morgan, Morris, Muncy, Nett, O'Brien, Overstreet, Pearl, Priddy, Rattliff, Richards, B. Richardson, Robinson, Romines, Sale, Schmidt, Siler, Stephens, Stewart, Tobin, R. Turner, Vincent, Wells, White, Wible, Wooden, Wright, Yates. Nays 0.

HB 358 was passed and the title agreed to.

Representative Hurst moved that the vote by which **HB 358** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 411 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and place upon its passage. Agreed by a majority of members elected.

Representative Givhan moved that **HB 411** be passed.

On the roll call the vote was yeas 82-Ackerson, B. Adams, A. S. Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blandford, Blume, Blythe, Boatwright, Brinkley, Brown, Bruce, Burnette, Carpenter, Cooper, Craddock, Cyrus, Dawahare, DeFalaise, DeMarcus, Deskins, Dietz, Donnermeyer, Doss, Dunn, Floyd, Foster, Givhan, Gray, Guenthner, Hancock, Hardwick, Head, Holbrook, Hopkins, Hughes, Imes, Isler, Jones, Kenton, Kidd, King, Kleier, LeMaster, Lindsay, Mason, May, Maynard, McBee, McBride, McGill, Morgan, Morris, Muncy, O'Brien, Overstreet, Priddy, Rattliff, Richards, B. Richardson, Robinson, Romines, Sale, Schmidt, Siemens, Siler, Stephens, Tobin, R. Turner, Vincent, Wells, White, Wible, Wooden, Wright, Yates. Nays 2-Clarke, Nett.

HB 411 was passed and the title agreed to.

Representative Givhan moved that the vote by which **HB 411** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative B. Richardson moved that consideration of **HB 5, HB 218,** and **HB 305** be deferred and that they retain their position in Orders of the Day. Agreed.

HB 365 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

On the roll call the vote was yeas 82-Ackerson, B. Adams, A. S. Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blandford, Blume, Blythe, Boatwright, Brown, Bruce, Burnette, Clarke, Cooper, Craddock, Cyrus, Dawahare, DeFalaise, DeMarcus, Denham, Deskins, Dietz, Donnermeyer, Doss, Dunn, Floyd, Foster, Givhan, Gray, Guenthner, Hancock, Hardwick, Head, Holbrook, Hopkins, Hughes, Hurst, Imes, Isler, Jones, Kenton, Kidd, King, Kleier, LeMaster, Lindsay, Mason, Maynard, McBee, McBride, McGill, Morgan, Morris, Muncy, Overstreet, Pearl, Priddy, Rattliff, Richards, B. Richardson, Robinson, Romines, Sale, Schmidt, Siemens, Siler, Stephens, Tobin, R. Turner, Vincent, Wells, White, Wible, Wooden, Wright, Yates. Nays 0.

HB 365 was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **HB 365** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 419 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative King moved that **HB 419** be passed.

On the roll call the vote was yeas 76-Ackerson, B. Adams, A. S. Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blandford, Blythe, Brinkley, Bruce, Burnette, Craddock, Cyrus, Dawahare, DeFalaise, DeMarcus, Deskins, Dietz, Donnermeyer, Doss, Dunn, Floyd, Foster, Freeman, Givhan, Gray, Guenthner, Hancock, Hardwick, Head, Holbrook, Holloway, Hopkins, Hurst, Isler, Kenton, Kidd, King, Kleier, LeMaster, Lindsay, Little, Maynard, McBee, McBride, McGill, Morgan, Morris, Muncy, O'Brien, Overstreet, Priddy, Rattliff, Richards, B. Richardson, Robinson, Romines, Sale, Schmidt, Siemens, Siler, Stephens, Tobin, R. Turner, Vincent, Wells, White, Wible, Wooden, Wright, Yates. Nays 5-Blume, Carpenter, Clarke, Imes, Pearl.

HB 419 was passed and the title agreed to.

Representative King moved that the vote by which **HB 419** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 434, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Wible moved the adoption of the Committee Amendment No. 1 to **HB 434.** Agreed.

Representative Wible moved that **HB 434,** as amended, be passed.

On the roll call the vote was yeas 63-B. Adams, A. S. Adams, J. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blandford Blume, Boatwright, Bruce, Clarke, Craddock, Dawahare, DeFalaise, DeMarcus, Dietz, Donnermeyer, Doss, Floyd, Givhan, Gray, Hardwick, Head, Holbrook, Hopkins Hughes, Isler, Jones, Kenton, King, Kleier, LeMaster, Lindsay, Mason, Maynard, McBee, McBride, McGill, Morgan, Morris, Muncy, Nett, Overstreet, Pearl, Priddy, Richards, B. Richardson, Robinson, Romines, Sale, Siemens, Siler, Stephens, Tobin, R. Turner, Vincent, White, Wible, Wooden, Wright,. Nays 11-W. Allen, Blythe, Carpenter, Deskins, Foster, Guenthner, Hancock, Holloway, Imes, O'Brien, Yates.

HB 434, as amended, was passed and the title agreed to.

Representative Wible moved that the vote by which **HB 434,** as amended, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Report on Enrolled Bills

The Committee on Enrollment reported **HB 94** and **HB 217** had been examined and found correctly enrolled. **HB 94** and **HB 217** read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate.

The Speaker vacated the Chair.

Representative Stephens presiding.

Announcements

Representative Lindsay filed Floor Amendment No. 1 to **HB 102.**

Representative B. Richardson moved that when the House adjourns, it do so by voice vote. Agreed.

The following members filed requests with the Clerk to have their names added as co-sponsors of Bills and Resolutions: Representative Doss, **HB 407;** Representative Wooden, **HB 391;** Representatives DeMarcus and Ackerson, HB 270; Representative Ackerson, **HB 128, HB 116;** Representative B. Richardson, **HB 548;** Representative Blume, **HB 554.**

Adjournment

Representative B. Richardson moved that the House adjourn until 10:00 a.m., Friday, February 20, 1976. Agreed.

FRIDAY, FEBRUARY 20, 1976

THIRTY-FIFTH LEGISLATIVE DAY

The House was called to order by Speaker Kenton.

Prayer by Reverend John C. Chenault, First Christian Church, Frankfort.

The roll was called. All present except Representatives Clapp and J. R. Turner.

Representative Isler moved that absent members be granted leave of absence in accordance with the prevailing rules of the House. Agreed.

Representative Hughes moved that the reading of the Journal of February 19, 1976, be dispensed with and the same approved. Agreed.

Report on Enrolled Bills

HB 94 and **HB 217** delivered to the Senate, signed by President. Ordered delivered to the Governor.

Intoduction of Bills and Resolutions

HB 589, by Representatives Denham, Deskins, and Little: AN ACT relating to persons who are graduates of foreign medical or osteopathic schools or colleges.

HB 590, by Representative Wells: AN ACT relating to state universities and colleges.

HB 591, by Representative Kleier: AN ACT relating to circuit clerk's fees.

HB 592, by Representatives Stewart and Bruce: AN ACT relating to mining.

HB 593, by Representative Wible: AN ACT relating to municipal utilities.

HB 594, by Representative Boatwright: AN ACT relating to county auxilary police.

HB 595, by Representative Boatwright: AN ACT relating to motor carriers.

HB 596, by Representatives Siemens, Benson, and Ackerson: AN ACT relating to criminal trials.

HB 597, by Representatives Bendl, Benson, Bevins, Blythe, Donnermeyer, Kleier, Mann, Maynard, McGill, and Wooden: AN ACT relating to group insurance and fringe benefits for employes of boards of education.

HB 598, by Representative Givhan: AN ACT relating to professional ethics.

HB 599, by Representatives Givhan, Lindsay, Bennett, Benson, Blythe, Craddock, Deskins, Fitzgerald, Guenthner, LeMaster, Mason, Pearl, Siemens, Stephens, and Wible: AN ACT relating to comparative fault.

Recess

Representative B. Richardson moved that the House recess for thirty minutes. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to Order.

Senate Message

Announcing passage of **SB 1, SB 58, SB 121, SB 136, SB 157, SB 160, SB 172, SB 173, SB 176, HB 67, HB 91,** and **HB 180.**

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Natural Resources: **HB 579, HB 588.**

Appropriations and Revenue: **HB 563, HB 569, HB 578, HB 583, HB 558, SB 119.**

Banking and Insurance: **HB 566.**

Business Organizations and Professions: **HB 556, HB 559, HB 561, HB 584.**

Education: **HB 582, HR 57, SB 106, SB 139.**

Elections and Constitutional Amendments: **HB 575, HB 576.**

Health and Welfare: **HB 574, HB 577.**

Highways and Traffic Safety: **HB 570, HB 581.**

Judiciary-Courts: **HB 587.**

Judiciary-Statutes: **HB 564, HB 580, HB 585, SB 70.**

Labor and Industry: **HB 568, HB 571.**

Public Utilities and Transportation: **HB 560, HB 562, HB 567, HB 572, HB 573.**

State Government: **HB 557, HB 565, HB 586.**

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for consideration:

Agriculture and Natural Resources: **HB 541, HB 546, HB 579.**

Cities: **HB 387, SB 181.**

Counties and Special Districts: **HB 548.**

Education: **HB 383, HB 315, HB 281, HB 454, SB 113.**

Elections and Constitutional Amendments: **HB 161, HB 196, HB 276, HB 283, HB 379, HB 414, HB 530.**

Health and Welfare: **HB 376, HB 500, HB 509, HB 535.**

Judiciary-Courts: **HB 526.**

Labor and Industry: **HB 436, HB 450, HB 533.**

State Government: **HB 34, HB 534, SB 39, SB 100, SB 101, SB 117.**

The Clerk announced the following Bills and Resolutions have been withdrawn from Committee consideration:

Agriculture and Natural Resources: **HB 2.**

Labor and Industry: **HB 373.**

Report of Committees

The Committee on Rules reported **HB 57, HB 70** with Committee Amendment and Committee Substitute attached thereto, **HB 73** with Committee Substitute attached thereto, **HB 114** with Committee Amendment attached thereto, **HB 186** with Committee Amendment and Committee Substitute attached thereto, **HB 280, HB 289, HB 321** with Committee Amendment attached thereto, **HB 368** with Committee Amendment attached thereto, **HB 377, HB 396, HB 408, HB 412, HB 430, HB 446, HB 451** with Committee Amendment attached thereto, **HB 475, HR 40, SB 21,** and **SB 33** with Committee Amendment attached thereto, have been posted for passage in Orders of the Day, February 23, 1976.

The Committee on Appropriations and Revenue reported **HB 168,** with Committee Substitute and Committee Amendment attached thereto, with the expression of opinion that the same should pass. Ordered referred to the Committee on Rules.

The Committee Amendment to the Committee Substitute for **HB 168** is as follows:

Amend printed copy of Committee Substitute for House Bill 168 on page 1, line 5, by deleting the words "for the purpose of achieving racial balance"

and on line 7, after the word "district" by deleting the period and adding the following: "unless space is not available. When space is not available at the nearest public school, only that number of pupils may be transported to the next nearest public school which does have space available of the appropriate grade level."

The Committee on Appropriations and Revenue reported **HB 374** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 374, AN ACT relating to appropriations for the operation, maintenance, support and functioning of the government of the Commonwealth of Kentucky and its various officers, cabinets, departments, boards, commissions, institutions, subdivisions, agencies, and other state supported activities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

PART I
GENERAL FUND

There is appropriated out of the General Fund for the fiscal year ended June 30, 1976, and, including any unappropriated surplus to the General Fund as of June 30, 1976, for the fiscal year beginning July 1, 1976, and ending June 30, 1977, and, including any unappropriated surplus to the General Fund as of June 30, 1977, for the fiscal year beginning July 1, 1977, and ending June 30, 1978, the following sums for the following officers, cabinets, departments, boards, commissions, institutions, subdivisions, and agencies of the State Government, and any and all other activities of the government of the Commonwealth of Kentucky subject to the provisions of Chapters 21, 42 and 45 of the Kentucky Revised Statutes, for which a specific appropriation is in Part I listed as follows:

A. GENERAL GOVERNMENT

1. GOVERNOR

1976-77	$ 708,100
1977-78	$ 739,500

2. LIEUTENANT GOVERNOR

1976-77	$ 252,200
1977-78	$ 277,200

3. SECRETARY OF STATE

a. General Operations

1976-77	$ 522,200

b. Restoration of Land Grant Books

1977-78	$ 545,700

1976-77	$ 20,000
1977-78	$ 20,000

TOTAL - SECRETARY OF STATE

1976-77	$ 542,200
1977-78	$ 565,700

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4. BOARD OF ELECTIONS

1976-77	$ 965,500
1977-78	$ 982,900

The sum of $612,000 from the appropriation for the 1976-77 fiscal year, and $615,000 from the appropriation for the 1977-78 fiscal year is provided to pay the state's share of county election expenses (KRS 117.345). Any unexpended amount remaining at the close of each fiscal year shall lapse to the credit of the General Fund. Any expenses in excess of the above amounts shall be deemed a necessary governmental expense.

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5. TREASURER

1976-77	$ 706,700
1977-78	$ 753,100

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6. DEPARTMENT OF LAW

1975-76	$ 44,000
1976-77	$ 1,650,800
1977-78	$ 1,718,800

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7. AUDITOR OF PUBLIC ACCOUNTS

1976-77	$ 641,900
1977-78	$ 645,100

Any expenses incurred in the auditing of federal disaster relief funds shall be deemed a necessary governmental expense.

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8. GENERAL CONTINGENCY FUND

1975-76	$ 200,000
1976-77	$ 2,000,000
1977-78	$ 2,250,000

Funds are appropriated for meeting expenses deemed necessary by the Governor, and to be expended by the Governor, at his discretion, for any emergency or other contingency that he may determine requires the expenditure of any part of said fund. Any unexpended balance at the close of the 1976-77 fiscal year shall not lapse, but shall continue into the 1977-78 fiscal year.

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9. CAPITAL PLAZA

1976-77	$ 2,333,500
1977-78	$ 2,331,200

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10. COUNTY COSTS

1976-77	$ 10,110,000
1977-78	$ 10,610,000

All county costs funded by the General Fund are deemed to be necessary governmental expenses and additional funds may be allotted from the General Fund surplus by the Commissioner of the Executive Department for Finance and Administration.

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11. EXECUTIVE DEPARTMENT FOR FINANCE AND ADMINISTRATION

a. State Planning Fund

1975-76	$ 300,000
1976-77	$ 2,100,000
1977-78	$ 2,100,000

Any portion of the above appropriation for the State Planning Fund may be transferred to other major program areas or agencies of state government for the purpose of funding planning studies approved by the State Planning Committee.

b. General Operations

1975-76	$ 3,163,700
1976-77	$ 10,467,400
1977-78	$ 10,971,500

Included in the above appropriation for fiscal year 1975-76 is $1,000,000 for use in implementation of the Judicial Article and related legislation and for the purposes of ascertaining the current level of revenues and expenditures in the inferior courts in preparation for a special session of the General Assembly. Any unexpended balance in this account at the close of the 1975-76 fiscal year shall not lapse but shall continue into the 1976-77 fiscal year. Likewise, any unexpended balance in this account at the close of the 1976-77 fiscal year shall not lapse, but shall continue into the 1977-78 fiscal year.

c. Salary Improvements for State Employees

1976-77	$ 8,000,000
1977-78	$ 10,000,000

Any portion of the above appropriation may be transferred to any major program area or agency of state government for the purpose of meeting salary improvements for state employees as determined to be needed by the Executive Department for Finance and Administration based upon the recommendation of the Department of Personnel.

TOTAL - EXECUTIVE DEPARTMENT FOR FINANCE AND ADMINISTRATION

1975-76	$ 3,463,700
1976-77	$ 20,567,400
1977-78	$ 23,071,500

12. GENERAL OBLIGATION BONDS

1976-77	$ 10,375,000
1977-78	$ 10,385,000

For the principal and interest on bonds issued to pay veterans' bonuses, on general obligation park bonds, and on 1965 general obligation bonds.

13. COMMISSION ON HUMAN RIGHTS

1976-77	$ 633,600
1977-78	$ 665,800

14. KENTUCKY RETIREMENT SYSTEMS

1975-76	$ 250,000

15. DEPARTMENT OF MILITARY AFFAIRS

1975-76	$ 1,126,300
1976-77	$ 1,604,800
1977-78	$ 1,664,300

Any expenditures of funds as a result of the Governor's call of the Kentucky National Guard to active duty is hereby declared to be a necessary governmental expense provided, however, that an emergency situation shall have been declared to exist by the Governor.

16. OCCUPATIONAL AND PROFESSIONAL BOARDS AND COMMISSIONS

a. Kentucky Athletic Commission

1976-77	$ 35,500
1977-78	$ 35,500

17. DEPARTMENT OF PERSONNEL

1976-77	$ 2,040,600
1977-78	$ 2,171,500

Notwithstanding the provisions of KRS 18.330, the above appropriations are to be used for the pro-rata cost of administering a merit system of personnel administration for the civil service of the Commonwealth for all departments, commissions, boards, or other agencies which receive support from the General Fund or Revolving Trust and Agency Funds. Said appropriations may also be used for special training programs approved by the Commissioner for Finance and Administration.

Relative to merit hearings before the Personnel Board, the particular agency of which the complainant is or was an employee shall bear all of the administrative costs thereof whenever the Personnel Board rules in favor of the complainant, such as for example, but not limited to, the fees of court reporters, the printing or other reproduction expenses related to hearing transcripts, and other related matters. Relative to all appeals resulting from merit hearings of the Personnel Board, including appeals to the Circuit Court, Court of Appeals, or the Supreme Court, the particular agency of which the complainant in said hearing is or was an employee shall bear all of the costs thereof whenever the courts rule in favor of the complainant, chargeable to the Personnel Board, such as for example, but not limited to, legal fees and court costs and fees.

18. DEPARTMENT OF PUBLIC INFORMATION

1976-77	$ 3,080,200
1977-78	$ 3,080,200

The sum of $329,700 from the appropriation for the 1976-77 fiscal year, and $329,700 from the appropriation for the 1977-78 fiscal year may be used for a cooperative advertising program to encourage and assist local governments and agencies in the promotion of tourist attractions. The department may make matching grants not to exceed fifty percent (50%) of project cost to local governments and agencies for such purpose.

19. DEPARTMENT OF REVENUE

1975-76	$ 762,500
1976-77	$ 18,172,200
1977-78	$ 19,431,300

The above appropriations include $5,562,000 in fiscal year 1976-77 and $5,976,000 in fiscal year 1977-78 for property valuation administrators; any expenses in excess of these amounts for property valuation administrators shall be deemed necessary governmental expenses.

20. FINANCIAL DISCLOSURE REVIEW COMMISSION

1975-76	$ 8,700
1976-77	$ 8,700
1977-78	$ 8,700

21. KENTUCKY PUBLIC EMPLOYEE DEFERRED COMPENSATION SYSTEM

1975-76	$ 68,800
1976-77	$ 73,300
1977-78	$ 81,800

22. COMMISSION ON WOMEN

1975-76	$ 8,000
1976-77	$ 58,000
1977-78	$ 64,000

23. COMMISSION FOR POST-SECONDARY EDUCATION

1976-77	$ 50,000
1977-78	$ 100,000

24. APPROPRIATIONS NOT OTHERWISE CLASSIFIED

1976-77	$ 1,484,100
1977-78	$ 1,549,100

All items included within the Appropriations Not Otherwise Classified category shall be deemed necessary governmental expenses, and any expenditure over the above amounts is to be paid from the General Fund surplus. Appropriations Not Otherwise Classified includes the following items:

a. Back Tax Collections

b. Board of Claims Awards

Funds are appropriated for the repayment of awards or judgments made by the Board of Claims against departments, boards, commissions, and other agencies maintained by appropriations out of the General Fund. However, awards under $500 in cases where the operating agency admits negligence shall be paid from funds available for the operations of such agencies.

c. Judgments

For payment of such judgments as may be rendered against the Commonwealth by courts and orders of the State Personnel Board; such payments, where applicable, shall be subject to the provisions of KRS Chapter 45.

d. Prior Year Claims

e. Unredeemed Checks Refunded

Checks written by the State Treasurer and not cashed within the statutory period may be presented to the State Treasurer for reissuance in accordance with the provisions of KRS 41.370.

f. Confederate Pensions

g. Blanket Employees Bonds

For payment of premiums on blanket surety bonds as provided by KRS 62.170.

h. Franklin Circuit Court

For purposes of supplies and equipment in accordance with KRS 28.165.

i. Frankfort Planning Commission

j. Frankfort Cemetery

k. Public Improvements

Funds are appropriated for paying assessments for public improvements against property owned by the State, and for which said assessments the State is deemed to be liable.

l. Money Refunded

For refunding money paid into the State Treasury, which may later be determined not to be a lawful collection by the State. No money shall be refunded, however, after it has been paid into the State Treasury except by authority of the head of the department or agency to whom the money was originally paid and with the approval of the Commissioner of the Executive Department for Finance and Administration and the Attorney General.

m. Circuit Courts - Employer Retirement

n. Circuit Courts - Social Security

o. Circuit Court Clerks - Life Insurance

p. Commonwealth Attorneys - Life Insurance

q. Circuit Court Clerks - Health Insurance

r. Commonwealth Attorneys - Health Insurance

s. Police and Firemen - Life Insurance

Funds are appropriated for payment of benefits for state and local police and firemen in accordance with KRS 61.315.

t.Workmen's Compensation—Circuit Courts and Commonwealth Attorneys

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TOTAL - GENERAL GOVERNMENT

1975-76	$ 5,932,000
1976-77	$ 78,094,300
1977-78	$ 83,182,200

B. DEVELOPMENT

25.OFFICE OF THE SECRETARY

1975-76	$ 100,000
1976-77	$ 1,110,400
1977-78	$ 1,185,800

26.KENTUCKY DEPARTMENT OF ENERGY

1975-76	$ 59,600
1976-77	$ 482,600
1977-78	$ 492,300

27.DEPARTMENT OF PARKS

1975-76	$ 1,585,600
1976-77	$ 13,393,500
1977-78	$ 13,645,200

28.DEPARTMENT OF AGRICULTURE

1975-76	$ 29,000
1976-77	$ 4,738,600
1977-78	$ 4,720,100

29.BREAKS INTERSTATE PARK COMMISSION

1976-77	$ 112,500
1977-78	$ 112,500

For matching funds appropriated by the Commonwealth of Virginia relating to construction, maintenance, and operations at the Breaks Interstate Park. In accordance with the Breaks Interstate Compact this appropriation is contingent upon an appropriation by the Commonwealth of Virginia adequate to match this amount on an equal basis; provided, however, that appropriations to date shall be considered cumulatively, and any deficit in appropriations by this state may be removed. --

30. COUNCIL OF ECONOMIC ADVISORS

1976-77	$ 92,500
1977-78	$ 92,500

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31. DEPARTMENT OF COMMERCE

1975-76	$ 120,000
1976-77	$ 3,537,900
1977-78	$ 3,614,900

32. STATE FAIR BOARD

1975-76	$ 35,000
1976-77	$ 2,512,500
1977-78	$ 4,325,000

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33. HISTORICAL EVENTS CELEBRATION COMMISSION

1976-77	$ 152,500

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34. KENTUCKY CENTER FOR ENERGY RESEARCH

1975-76	$ 493,600
1976-77	$ 2,888,200
1977-78	$ 2,809,100

35. KENTUCKY INDUSTRIAL DEVELOPMENT FINANCE AUTHORITY

1976-77	$ 7,800,000
1977-78	$ 300,000

For fiscal year 1976-77, $7,500,000 is appropriated for the creation of a multi-county industrial site development program. Any unexpended balance at the close of the 1976-77 fiscal year shall not lapse, but shall continue into 1977-78 fiscal year. --

TOTAL - DEVELOPMENT CABINET

1975-76	$ 2,422,800
1976-77	$ 36,821,200
1977-78	$ 31,297,400

C. EDUCATION

36. OFFICE OF THE SECRETARY

1975-76	$ 155,700
1976-77	$ 172,100
1977-78	$ 181,200

37. ARTS COMMISSION

a. General Operations

1976-77	$ 323,200
1977-78	$ 324,200

b. Challenge Grants

1976-77	$ 250,000
1977-78	$ 250,000

To be distributed to local arts fund raising organizations in accordance with applicable regulations promulgated by the Kentucky Arts Commission. --

TOTAL - ARTS COMMISSION

1976-77	$ 573,200
1977-78	$ 574,200

38. DEPARTMENT OF EDUCATION

a. General Administration and Support

1975-76	$ 288,800
1976-77	$ 1,710,200
1977-78	$ 1,781,400

b. Education for Exceptional Children

1975-76	$ 40,350
1976-77	$ 1,555,700
1977-78	$ 1,651,300

c. School for the Deaf

1975-76	$ 14,000
1976-77	$ 2,110,700

1977-78 .... $ 2,282,000

d. School for the Blind

1976-77 .... $ 1,035,200
1977-78 .... $ 1,099,400

e. School Foundation Program

1975-76 .... $ 6,393,500
1976-77 .... $404,099,400
1977-78 .... $448,756,600

Accumulated earnings for the Common School Fund shall each fiscal year be transferred to the School Foundation Program.

The amount to be included for the 1976-77 school year in the Foundation Programs of a district for teachers' salaries shall be determined by multiplying the number of teachers in each rank, not to exceed the number of classroom units allowed, by the amount set forth in the following schedule, for a term of 185 days for each rank:

Rank Experience	I	II	III	IV	V
0-3 years	$ 9,513	$ 8,913	$ 8,313	$6,609	$5,917
4-9 years	10,683	10,083	9,513	6,609	5,917
10 years & over	11,363	10,763	10,183	6,609	5,917

Beginning with the school year 1977-78, the amount to be included in the Foundation Program of a district for teachers' salaries shall be determined by multiplying the number of teachers in each rank, not to exceed the number of classroom units allowed, by the amount set forth in the following allotment schedule, for a term of 185 days, for each rank:

Rank Experience	I	II	III	IV	V
0-3 years	$10,218	$ 9,618	$ 9,018	$7,314	$6,620
4-9 years	11,388	10,788	10,218	7,314	6,620
10 years & over	12,068	11,468	10,888	7,314	6,620

No working budget or salary schedule shall be approved in which the average salary paid any rank of teachers is not at least equivalent to the allotment for that rank, or in which any teacher is paid less than ninety-three percent (93%) of the Foundation Program allotment for that rank, except where there is a decline in local revenue of the district concerned after it has levied the maximum ad valorem property tax rate permitted by law. Any such reduction permitted shall be only for the amount of the decline in local revenue.

In the event any local board of education contends there has been a decline in local tax resources in that district, the State Board of Education shall certify such contention to the Department of Revenue. Said department shall then determine whether or not there has, in fact, been a decline in local tax resources of such district, and, if so, the amount of such decline. The Department of Revenue shall then certify its determination to the State Board of Education, and said Board shall accept such certified determination as final.

The allotment to any school district of classroom units, pursuant to KRS 157.360(1) shall not exceed the number of teachers employed by that school district.

Entitlement for basic classroom units obtained in schools of one classification shall not be allocated to schools of another classification. For the purposes of determining such entitlement, classification shall be as follows:

(1) One-teacher schools;

(2) Schools, other than one-teacher schools, with less than one hundred pupils in average daily attendance; and

(3) Schools, other than one-teacher schools, with more than one hundred pupils in average daily attendance.

In the determination of allotments pursuant to KRS 157.360(2), there shall not be allotted a full classroom unit for any non-isolated one-teacher school with fewer than 27 pupils in average daily attendance, or for any isolated one-teacher school which has fewer than 12 pupils in average daily attendance.

Notwithstanding the provisions of KRS 157.360(5), (6), and (10) the allotments, provision for which is made under this Act, for classroom units shall be as follows:

	1975-76	1976-77	1977-78
Vocational Education	2,230	2,458	2,732
Exceptional Children	2,460	3,260	3,860
Kindergarten	200	350	500

Provided, however, that if classroom units in either category prove to be excessive, the surplus not to exceed fifty (50) such classroom units may be reallocated to the other category by the Superintendent of Public Instruction, upon approval of the State Board of Education and the Commissioner of the Executive Department for Finance and Administration.

Allotments for classroom units pursuant to KRS 157.360(7) shall only be for those personnel enumerated under said subsection who are qualified for their respective positions under applicable provisions of law and regulations, and who maintain programs which have been approved pursuant to applicable regulations.

The amount to be included in the Foundation Program for other current expenses shall be determined by multiplying the number of classroom units by: $2,189 in the 1976-77 school year, and $2,364 in the 1977-78 school year. Funds appropriated in the 1975-76 school year for current expenses shall be allocated by dividing the total funds appropriated by the total number of classroom units in all categories.

The amount to be included in the Foundation Program for capital outlay shall be determined by multiplying the number of classroom units by: $1,650 in the 1976-77 school year, and $1,700 in the 1977-78 school year.

In accordance with the intent of KRS 162.060 and 162.160, no space shall be rented, purchased, or otherwise acquired and thereafter converted to classroom use without prior appoval of the Superintendent of Public Instruction. The State Board of Education may adopt regulations for the housing of school children; provided, however, that no existing room shall be divided by partitions of non-structural materials. No classroom units shall be allotted for a second teacher in the same classroom. No facilities shall be approved for classroom use which are detrimental to the health of, or dangerous to the safety of, school children.

If a school district operates any school or grade of a school for a term of less than nine and one-quarter (9 1/4) scholastic months or for a school day of less than the minimum required by KRS 158.060, the average daily attendance of such school shall be reduced proportionately by the Superintendent of Public Instruction in determining the allotment of classroom units pursuant to KRS 157.400 and applicable regulations.

Notwithstanding the provisions of KRS 157.400, any undistributed balance in the Foundation Program fund at the end of the fiscal year 1976-77 and 1977-78 shall lapse to the General Fund. Notwithstanding the provisions of KRS 156.650, no unexpended portions of the Foundation Program fund shall be expended at any time for the purpose of KRS 156.610 through 156.650.

Provided, however, that nothing in this Act shall prohibit the Department of Education from distributing these funds in accordance with the provisions of KRS 157A.010 through 157A.990.

Notwithstanding the provisions of KRS 157.370, no funds shall be expended for the purpose of providing transportation beyond the nearest school in which the child can be placed within a local school district to students enrolled in the public schools.

The total appropriation for the Foundation Program shall be measured by, or construed as, estimates of the state expenditures required by KRS 157.310 et. seq. If the required expenditures exceed these estimates, the Commissioner for Finance and Administration, with approval of the Governor, may increase the appropriation by such amount as may be available and necessary to meet, to the extent possible, the required expenditures under the hereinabove cited sections of the Kentucky Revised Statutes; provided, however, that any such increase, or the total appropriation to the Foundation Program is subject to Part V, General Provisions, Section 9, of this Act, and the provisions of KRS 45.160.

f. Power Equalization

1977-78	$ 10,500,000

Such funds are appropriated for the purpose of equalizing expenditures among students in local school districts in accordance with appropriate statutory authority. If enabling legislation is not in effect in fiscal year 1977-78, these funds shall remain unallotted, and, shall lapse to the credit of the General Fund at the end of fiscal year 1977-78.

g. General Instructional Services

1976-77	$ 914,400
1977-78	$ 972,600

h. Free Textbooks

1975-76	$ 8,083,400
1976-77	$ 4,531,900
1977-78	$ 4,868,200

For the purchase of textbooks in accordance with KRS 157.100, et. seq., and applicable regulations. Included in the fiscal year 1975-76 appropriation is $7,583,400 for the purchase of textbooks in public high schools. Any unexpended balance remaining in the high school textbook program at the end of fiscal year 1975-76 shall not lapse but shall continue into fiscal year 1976-77. Likewise any unexpended balance remaining in the high school textbook program at the end of fiscal year 1976-77 shall not lapse, but shall continue into fiscal year 1977-78.

i. Local Administration and Finance

1975-76	$ 167,000
1976-77	$ 989,800
1977-78	$ 961,600

j. Out-of-District Children

1976-77	$ 516,300
1977-78	$ 526,400

Funds are included in the above appropriations for extension of the current program to three day treatment centers and for expansion of the activities from nine and one-quarter (9 1/4) months, to twelve (12) months.

For reimbursement to local school districts for programs provided in accordance with KRS 158.135 and applicable regulations. Provided, however, that if sufficient funds are not available to reimburse each district for the total cost of the services, each allocation shall be reduced in accordance with Part V, General Provisions, Section 9.

k. Teacher Life Insurance

1976-77	$ 619,800
1977-78	$ 632,800

For providing $3,000 of life insurance to each full-time certificated and non-certificated employee of local boards of education.

l. Committee for School District Audits

1976-77	$ 206,300
1977-78	$ 207,900

m. Replacement of Student Fees

1976-77	$ 4,400,000
1977-78	$ 4,600,000

To be distributed to local school districts in accordance with appropriate administrative regulations to be promulgated by the Department of Education, for the replacement of student fees.

n. Teacher Health Insurance

1975-76	$ 8,408,100
1976-77	$ 11,731,600
1977-78	$ 13,487,000

Funds are provided for the purchase of medical insurance for certificated and non-certificated full-time employees of local boards of education pursuant to applicable statutes and regulations.

o. Pupil Personnel Services

1976-77	$ 719,300
1977-78	$ 719,900

p. State School Lunch Assistance

1976-77	$ 3,307,500
1977-78	$ 3,552,500

q. Vocational Education

1975-76	$ 805,100
1976-77	$ 18,363,600
1977-78	$ 18,484,400

r. Vocational Rehabilitation

1975-76	$ 87,100
1976-77	$ 2,006,800
1977-78	$ 2,095,600

TOTAL - DEPARTMENT OF EDUCATION

1975-76	$ 24,287,350
1976-77	$458,818,500
1977-78	$517,179,600

39. KENTUCKY EDUCATIONAL TELEVISION

a. General Operations

1975-76	$ 204,800
1976-77	$ 4,995,500

1977-78	$ 4,365,800

Any unexpended balance, not to exceed $637,500, at the close of fiscal year 1976-77 shall not lapse, but shall continue into the 1977-78 fiscal year reserved for the production of educational television series.

b. Debt Service

1976-77	$ 618,800
1977-78	$ 616,700

TOTAL - KENTUCKY EDUCATIONAL TELEVISION

1975-76	$ 204,800
1976-77	$ 5,614,300
1977-78	$ 4,982,500

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40. HERITAGE COMMISSION

a. General Operations

1975-76	$ 23,400
1976-77	$ 178,500
1977-78	$ 182,000

b. Survey of Archaeological Sites

1976-77	$ 110,000
1977-78	$ 120,000

Funds are provided for the purpose of conducting a statewide inventory and survey of archaeological sites in Kentucky upon approval of an accepted plan by the Commissioner for Finance and Administration.

TOTAL - HERITAGE COMMISSION

1975-76	$ 23,400
1976-77	$ 288,500
1977-78	$ 302,000

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41. HISTORICAL SOCIETY

1975-76	$ 28,100
1976-77	$ 637,200
1977-78	$ 656,400

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42. DEPARTMENT OF LIBRARY AND ARCHIVES

1975-76	$ 384,000
1976-77	$ 4,666,500
1977-78	$ 4,672,500

The appropriation in fiscal year 1975-76 is for the purchase of bookmobiles. Any unexpended balance remaining at the close of fiscal year 1975-76 shall not lapse, but shall continue into fiscal year 1976-77.

TOTAL - EDUCATION AND ARTS

1975-76	$ 25,083,350
1976-77	$470,770,300
1977-78	$528,548,400

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43. TEACHERS' RETIREMENT SYSTEM

1976-77	$ 53,894,800
1977-78	$ 60,029,100

For administering and complying with the obligations of the state under the Teachers' Retirement Act as provided in KRS 161.220 through 161.710.

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44. COUNCIL ON PUBLIC HIGHER EDUCATION

1975-76	$ 515,000
1976-77	$ 7,806,600
1977-78	$ 11,825,700

Included in the $7,806,600 appropriation for the 1976-77 fiscal year is $886,800 for General Administration and Support activities; $3,271,300 for Coordination and Planning activities and $3,648,500 for the Institutional Pools.

Included in the $11,825,700 appropriation for fiscal year 1977-78 is $948,200 for General Administration and Support activities; $3,403,400 for Coordination and Planning activities; and $7,474,100 for the Institutional Pools.

In fiscal year 1976-77, $2,300,000 and in fiscal year 1977-78, $4,600,000 is appropriated to the Council on Public Higher Education for allocation to the institutions of public higher education for undergraduate enrollment growth, which shall be computed based upon the following factors.

1.The Council on Public Higher Education shall submit to Office for Policy and Management, Executive Department for Finance and Administration, on or before May 1 preceeding the fiscal year for which the appropriation is available all cost data, computations and recommendations for distribution of the enrollment growth pool.

2.Recommendations to the Office for Policy and Management for allotment purposes, shall be based upon actual undergraduate credit hour production with a computation of the full time equivalent enrollments in the undergraduate programs for the preceeding fall semester compared to the same data for the fall semester of the prior fiscal year.

3.The Council on Public Higher Education shall also furnish the Office for Policy and Management computations which reflect the total actual cost per credit hour and the amount of that cost which is supported by the state appropriation for the latest fiscal year that the data can be obtained. In furnishing such information the Council on Public Higher Education shall identify separately data regarding the University of Kentucky Community College system.

4.There is hereby established for calculation and distribution purposes an enrollment growth pool base year. This base year shall be defined as the level of undergraduate enrollments for the fall semester 1975 as calculated by the Council on Public Higher Education.

5.Enrollment growth computations after fiscal year 1975-76 shall be expressed as factors of this base. Allocations for enrollment increases over this base shall be reduced by allotments already received since the establishment of the base, except that any allotment, for this purpose, for a preceeding year shall not be reduced.

6.The amount to be distributed to each institution shall be based upon the analysis of cost as determined by the Council for the preceeding fiscal year. The amounts may be distributed based upon the actual growth, if any, in the number of credit hours produced or increases in under graduate full time equivalent (FTE) enrollment, whichever is less.

In fiscal year 1976-77, $1,348,500, and in fiscal year 1977-78 $2,874,100, is appropriated to the Council on Public Higher Education for allocation to the University of Louisville for tuition income replacement resulting from a reduction of tuition charges, $100 each fiscal year for regular in-state undergraduate, graduate and law school students; this appropriation also includes necessary funds to reduce in-state summer school tuition charges $50 each fiscal year. Any balance remaining in the tuition reduction account at the close of fiscal year 1976-77 shall not lapse, but shall continue into fiscal year 1977-78.

45.HIGHER EDUCATION ASSISTANCE AUTHORITY

1975-76	$ 78,500
1976-77	$ 3,340,700
1977-78	$ 2,856,400

Of the appropriations $1,500,000 in fiscal year 1976-77 and $1,000,000 in fiscal year 1977-78 shall be used for the revolving Student Loan program. Also $1,000,000 is appropriated each fiscal year for the State Student Incentive Grant program and $500,000 in each fiscal year for the Kentucky Tuition Grant program.

46.UNIVERSITY OF KENTUCKY

1975-76	$ 1,691,357
1976-77	$ 87,419,000
1977-78	$ 92,949,600

47.UNIVERSITY OF LOUISVILLE

1975-76	$ 2,613,942
1976-77	$ 36,056,800
1977-78	$ 39,293,600

48.EASTERN KENTUCKY UNIVERSITY

1975-76	$ 522,361
1976-77	$ 21,685,200
1977-78	$ 23,043,500

49. WESTERN KENTUCKY UNIVERSITY

1975-76	$ 262,580
1976-77	$ 21,060,900
1977-78	$ 22,258,300

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50. MOREHEAD STATE UNIVERSITY

1975-76	$ 208,201
1976-77	$ 13,444,600
1977-78	$ 14,342,300

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51. MURRAY STATE UNIVERSITY

1975-76	$ 275,334
1976-77	$ 15,068,300
1977-78	$ 16,177,800

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52. KENTUCKY STATE UNIVERSITY

1975-76	$ 235,945
1976-77	$ 5,872,500
1977-78	$ 6,331,600

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53. NORTHERN KENTUCKY STATE COLLEGE

1975-76	$ 225,107
1976-77	$ 9,344,600
1977-78	$ 10,149,200

TOTAL - PUBLIC HIGHER EDUCATION

1975-76	$ 6,628,327
1976-77	$221,099,200
1977-78	$239,228,000

D. HUMAN RESOURCES

54. DEPARTMENT FOR HUMAN RESOURCES

a. Bureau for Social Insurance

1. Administration

1976-77	$ 14,984,900
1977-78	$ 15,706,200

In the event that any portion of this appropriation in either fiscal year is deemed to be in excess of the necessary expenses for administration of the bureau, such amount, with the approval of the Governor, may be used for Public Assistance Benefits to the needy in accordance with the statutes governing the functions and activities of the Bureau for Social Insurance. However, in no instance shall these excess funds be used to:

1.
establish a new program,
2.
expand the services of an existing program,
3.
increase rates or payment levels in an existing program, without the prior written approval of the Governor. Notwithstanding KRS 45.235, any unexpended balance not used for Public Assistance Benefits remaining at the close of the 1976-77 fiscal year shall lapse.

2. Benefits

1975-76	$ 2,025,500
1976-77	$114,502,900
1977-78	$130,284,200

To be used for the payment of benefits in accordance with the statutes governing the functions and activities of the Bureau for Social Insurance. No portion of this appropriation may be used for the costs of administration except with the prior written approval of the Governor. However, in no instance shall the unexpended balance carried forward, as provided by KRS 45.235, or any portion thereof be used to:

1.
establish a new program,
2.
expand the services of an existing program,

3.
increase rates or payment levels in an existing program, without the prior written approval of the Governor.

All medical assistance vendor statements for services rendered as a result of bona fide claims for medical care may be paid in the fiscal year in which such statements are received by the paying agency.

b.
Bureau for Manpower Services

1976-77	$ 385,000
1977-78	$ 580,000

c.
Bureau for Health Services

1975-76	$ 4,471,142
1976-77	$ 49,413,700
1977-78	$ 49,647,700

d.
Bureau for Social Services

1975-76	$ 106,800
1976-77	$ 20,187,700
1977-78	$ 22,823,400

e.
General Administration and Support

1976-77	$ 8,514,000
1977-78	$ 8,514,000

TOTAL—HUMAN RESOURCES

1975-76	$ 6,603,442
1976-77	$207,988,200
1977-78	$227,555,500

E. JUDICIARY

55. JUDICIARY

1975-76	$ 587,000
1976-77	$ 8,265,300
1977-78	$ 7,469,400

Any expense in excess of the above appropriations for the purposes of the Supreme Court, Court of Appeals, Circuit Court, Clerk of the Supreme Court, and Clerk of the Court of Appeals shall be deemed a necessary governmental expense.

F. JUSTICE

56. DEPARTMENT OF JUSTICE

a.
Bureau of Training

1976-77	$ 1,387,000
1977-78	$ 1,477,700

b.
Bureau of Corrections

1975-76	$ 920,500
1976-77	$ 19,721,900
1977-78	$ 20,435,000

c.
Bureau of State Police

1975-76	$ 2,719,900
1976-77	$ 27,393,000
1977-78	$ 27,830,500

d.
Public Defender

1976-77	$ 2,081,100
1977-78	$ 2,203,900

e.
General Administration and Support

1976-77	$ 7,206,700

1977-78	$ 7,656,300

TOTAL—DEPARTMENT OF JUSTICE

1975-76	$ 3,640,400
1976-77	$ 57,789,700
1977-78	$ 59,603,400

G. NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION

57. DEPARTMENT FOR NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION

a.
Bureau of Land Resources

1975-76	$ 655,200
1976-77	$ 8,367,600
1977-78	$ 7,063,100

The appropriation for fiscal year 1976-77 includes $1,000,000 for the Equipment Revolving Fund, any unexpended balance at the close of fiscal year 1976-77 shall not lapse, but shall continue into fiscal year 1977-78. Also, in fiscal year 1976-77 $250,000 is included for urban flood planning activities, any unexpended balance at the close of fiscal year 1976-77 shall not lapse, but shall continue into the 1977-78 fiscal year.

Not less than $60,000 of the appropriation for each fiscal year shall be set aside for emergency forest fire suppression. Any expenditure for emergency fire suppression in excess of the amount in either fiscal year is hereby declared to be a necessary governmental expense; provided, however, that an emergency situation shall have been declared to exist by the Governor.

b.
Bureau of Environmental Quality

1976-77	$ 3,971,000
1977-78	$ 4,148,100

c.
General Administration and Support

1976-77	$ 1,328,800
1977-78	$ 1,318,200

TOTAL - DEPARTMENT FOR NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION

1975-76	$ 655,200
1976-77	$ 13,667,400
1977-78	$ 12,529,400

58.
ENVIRONMENTAL QUALITY COMMISSION

1975-76	$ 23,800
1976-77	$ 47,500
1977-78	$ 47,500

TOTAL - NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION

1975-76	$ 679,000
1976-77	$ 13,714,900
1977-78	$ 12,576,900

H. PUBLIC PROTECTION AND REGULATION

59.
OFFICE OF THE SECRETARY

1976-77	$ 145,700
1977-78	$ 154,400

60.
DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL

1975-76	$ 23,500
1976-77	$ 691,600
1977-78	$ 698,100

61.

DEPARTMENT OF BANKING AND SECURITIES

1975-76	$ 12,000
1976-77	$ 1,361,400
1977-78	$ 1,422,000

Notwithstanding the provision of KRS 47.130, receipts collected by the Department shall be paid into the General Fund.

62.

BOARD OF TAX APPEALS

1976-77	$ 95,300
1977-78	$ 95,300

63.

DEPARTMENT OF INSURANCE

1975-76	$ 60,000
1976-77	$ 3,233,400
1977-78	$ 3,429,400

64.

DEPARTMENT OF LABOR

1975-76	$ 53,400
1976-77	$ 1,040,600
1977-78	$ 1,040,100

Funds are appropriated for the general operations of the Department of Labor; provided, however, that the amount of General Fund support for the Division of Research and Statistics and the Division of Fiscal and Personnel shall not exceed twenty-five percent (25%) of the total cost of these divisions.

65.

REGISTRY OF ELECTION FINANCE

1975-76	$ 34,600
1976-77	$ 130,100
1977-78	$ 133,100

66.

DEPARTMENT OF MINES AND MINERALS

1975-76	$ 6,700
1976-77	$ 1,315,900
1977-78	$ 1,323,900

67.

PUBLIC SERVICE COMMISSION

1976-77	$ 1,294,500
1977-78	$ 1,344,900

68.

KENTUCKY QUARTER HORSE AND APPALOOSA COMMISSION

1975-76	$ 4,000
1976-77	$ 10,000
1977-78	$ 10,000

69.

KENTUCKY STATE RACING COMMISSION

1976-77	$ 166,900
1977-78	$ 166,900

70.

KENTUCKY HARNESS RACING COMMISSION

1976-77	$ 182,700

1977-78	$ 182,700

71.

KENTUCKY HORSE COUNCIL

1975-76	$ 56,000
1976-77	$ 73,600
1977-78	$ 46,800

TOTAL—PUBLIC PROTECTION AND REGULATION

1975-76	$ 250,200
1976-77	$ 9,741,700
1977-78	$ 10,047,600

I. TRANSPORTATION

72.

DEPARTMENT OF TRANSPORTATION

a.

Air Transportation

1975-76	$ 356,200
1976-77	$ 3,789,700
1977-78	$ 3,025,400

The appropriation for fiscal year 1976-77 includes $2,772,400 and for fiscal year 1977-78, $1,976,600 for the Airport Development Fund. Also, in fiscal

year 1976-77 $200,000, is included for the Airport Development Loan Fund. The total General Fund appropriation stated above may be transferred for administrative purposes to the Transportation Fund for allotment and expenditure.

b.

Water Transportation

1975-76	$ 338,500
1976-77	$ 923,600
1977-78	$ 947,600

The total General Fund appropriation stated above may be transferred for administrative purposes to the Transportation Fund for allotment and expenditure.

c.

Rail Transportation

1976-77	$ 51,600
1977-78	$ 51,600

The total General Fund appropriation stated above may be transferred for administrative purposes to the Transportation Fund for allotment and expenditure.

d.

Mass Transportation

1976-77	$ 2,103,400
1977-78	$ 2,103,400

The appropriation in fiscal years 1976-77 and 1977-78 includes $1,700,000 each year for the purchase of general municipal transportation vehicles, and the construction of municipal vehicle garages. $200,000 of the above appropriations each year shall be used for the transportation of the elderly and handicapped. The total General Fund appropriation stated above may be transferred for administrative purposes to the Transportation Fund for allotment and expenditure.

e.

General Administration and Support

1976-77	$ 804,200
1977-78	$ 804,200

The total General Fund appropriation stated above may be transferred for administrative purposes to the Transportation Fund for allotment and expenditure.

f.

Highways

1f.

Bureau of Highways

1976-77	$ 1,000,000
1977-78	$ 1,000,000

These funds are appropriated for the planning, land acquisition, and construction of bikeways and related facilities. The total General Fund appropriation stated above may be transferred for administrative purposes to the Transportation Fund for allotment and expenditure.

2f.

Bureau of Vehicle Regulation

(Except Division of Water Enforcement)

1976-77	$ 3,606,600
1977-78	$ 3,268,000

The total General Fund appropriation stated above may be transferred for administrative purposes to the Transportation Fund for allotment and expenditure.

TOTAL—DEPARTMENT OF TRANSPORTATION

1975-76	$ 694,700
1976-77	$ 12,279,100
1977-78	$ 11,200,200

PART II
TRUST AND AGENCY FUNDS

There is appropriated to the various officers, cabinets, departments, boards, commissions, institutions, subdivisions, and other agencies of the State Government only as are listed herein for the fiscal year ending June 30, 1977, and for the fiscal year ending June 30, 1978, all of the fees (which include fees for board and room, athletics, and student activities) and rental, admittances, sales, bond proceeds, licenses collected by law, gifts, subventions, Federal grants and other Federal funds received, contributions, income from investments and other miscellaneous receipts produced or received by any of the following agencies of the State Goverment, except as otherwise specifically provided, for the use and benefit of each of the below-named agencies of the State Government for the purposes for which each fund is authorized. Receipts which are received by each of the respective agencies of the State Government listed herein shall be placed to the credit of a Trust and Revolving, or an Agency Fund out of which shall be established separate Trust and Revolving or Agency Fund accounts for the use and benefit of these agencies of the State Government for purposes for which each fund is authorized. All funds received are appropriated and shall be deposited in the State Treasury and credited to the proper account as provided by KRS Chapters 12, 42, and 45.

In the event receipts received and credited to any Trust and Revolving or Agency Fund account during fiscal year 1976-77 or fiscal year 1977-78 and any balance forwarded to the credit of any such account from the previous fiscal year exceed the appropriation made by specific sum to said account for the fiscal year in which the excess occurs; provided, however, that with the exception of Federal grants and other Federal funds received, said excess shall become available for expenditure for the purpose of the account during said year only with the authorization of the Executive Director of the Office for Policy and Management upon approval of the Commissioner for Finance and Administration.

Except as herein otherwise provided, the appropriate agency may requisition for expenditure from the Trust and Revolving or Agency Fund account, through the Department for Finance and Administration, during the fiscal year ending June 30, 1977, and during the fiscal year ending June 30, 1978, all receipts placed to the credit of the Trust and Revolving or Agency Fund for such year, out of which has been established a Trust and Revolving or Agency Fund account for each separate agency during such fiscal year, in addition to any balance which said agency may have had forwarded from the preceding year on or before August 31, of the then current fiscal year, by the Department for Finance and Administration. On or before the beginning of each fiscal year, each agency shall submit to the Department for Finance and Administration schedules showing estimated receipts and estimated expenditures by quarterly period.

A. GENERAL GOVERNMENT

1. AUDITOR OF PUBLIC ACCOUNTS

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2. SECRETARY OF STATE

Notwithstanding the provisions of KRS 271A.625, KRS 271A.630, KRS 271A.635, and KRS 56.300; all the operating receipts from all activities of the office of the Secretary of State shall be deposited in the State Treasury to the credit of the General Fund.

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3. CAPITAL PLAZA

a. Commercial Area

1976-77	$ 90,700
1977-78	$ 93,200

b. Recreation and Entertainment Facilities

1976-77	$ 126,500
1977-78	$ 130,200

c. Debt Service

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4. COUNTY COSTS

a. Expense allowances for Commonwealth Attorneys, County Attorneys, and County Judges.

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5. EXECUTIVE DEPARTMENT FOR FINANCE AND ADMINISTRATION

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6. KENTUCKY RETIREMENT SYSTEMS

1976-77	$ 587,400
1977-78	$ 617,900

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7. OCCUPATIONAL AND PROFESSIONAL BOARDS AND COMMISSIONS

		1976-77	1977-78
a.	Board of Accountancy	$ 80,700	$ 84,300
b.	Board of Architects	$ 36,400	$ 36,400
c.	Board of Auctioneers	$ 27,000	$ 27,000
d.	Board of Barbers	$ 70,900	$ 74,900
e.	Board of Business Schools	$ 7,200	$ 4,500
f.	Board of Chiropractic Examiners	$ 20,800	$ 20,800
g.	Board of Dental Examiners	$ 70,800	$ 73,000
h.	Board of Embalmers and Funeral Directors	$ 34,000	$ 35,000
i.	Board of Engineers and Land Surveyors	$114,400	$112,500
j.	Board of Hairdressers and Cosmetologists	$261,600	$274,400
k.	Board of Hearing Aid Dealers	$ 15,300	$ 15,100
l.	Board of Landscape Architecture	$ 8,200	$ 8,200
m.	Board of Medical Licensure	$143,500	$145,500
n.	Board of Nurses	$269,900	$277,600
o.	Nursing Home Administrators Licensure Board	$ 24,500	$ 26,300
p.	Board of Ophthalmic Dispensers	$ 5,700	$ 5,800
q.	Board of Optometric Examiners	$ 11,700	$ 11,700
r.	Board of Pharmacy	$135,500	$142,300
s.	Board of Physical Therapy	$ 7,300	$ 8,100
t.	Board of Podiatry	$ 1,000	$ 1,000
u.	Board of Psychology	$ 14,700	$ 16,100
v.	Real Estate Commission		
	1. Examination and Licensing	$195,300	$205,000
	2. Real Estate Education Research and Recovery	$282,900	$286,400
w.	Board of Social Workers	$ 18,200	$ 23,400
x.	Board of Speech Pathologists and Audiologists	$ 4,000	$ 3,800

y.	Board of Veterinary Examiners	$ 11,000	$ 11,000
z.	Board of Watchmaking	$ 7,100	$ 7,100

8. DEPARTMENT OF PERSONNEL

9. DEPARTMENT OF REVENUE

10. COUNTY FEES

County Fees for the following counties: Jefferson, Kenton, Fayette, Campbell, and Daviess are for paying the various officials of each county enumerated, seventy-five percent (75 percent) of the fees provided by law to be paid, by the State, to these officials when their claims for fees have been presented to the Executive Department for Finance and Administration in the form and manner prescribed by law and approved by the Commissioner of the Executive Department for Finance and Administration, and to pay the Fiscal Court of each of said counties twenty-five percent (25 percent) of said fees as required by KRS 64.350.

11. MILITARY AFFAIRS

12. COMMISSION FOR POST-SECONDARY EDUCATION

B. DEVELOPMENT

13. OFFICE OF THE SECRETARY

1976-77	$ 10,000
1977-78	$ 185,000

14. DEPARTMENT OF PARKS

1976-77	$ 15,324,500
1977-78	$ 16,082,200

15. DEPARTMENT OF AGRICULTURE

1976-77	$ 928,100
1977-78	$ 961,600

16. DEPARTMENT OF FISH AND WILDLIFE

17. DEPARTMENT OF COMMERCE

1976-77	$ 216,100
1977-78	$ 216,200

18. STATE FAIR BOARD

19. HISTORICAL EVENTS CELEBRATION COMMISSION

20. KENTUCKY CENTER FOR ENERGY RESEARCH

1976-77	$ 809,200
1977-78	$ 977,800

21. KENTUCKY INDUSTRIAL DEVELOPMENT FINANCE AUTHORITY

1976-77	$ 375,000
1977-78	$ 372,700

22. DEPARTMENT OF ENERGY

C. EDUCATION

23. ADVISORY COUNCIL FOR VOCATIONAL EDUCATION

24. OFFICE OF THE SECRETARY

25. ARTS COMMISSION

26.	DEPARTMENT OF EDUCATION		
a.	General Administration and Support	1976-77	$ 4,794,200
		1977-78	$ 4,903,100
b.	Education for Exceptional Children	1976-77	$ 1,874,900
		1977-78	$ 1,869,900
c.	General Instructional Services	1976-77	$ 37,460,500
		1977-78	$ 37,779,200
d.	Local Administration and Finance	1976-77	$ 890,200
		1977-78	$ 925,000
e.	Pupil Personnel Services		
f.	School Food Services	1976-77	$ 46,697,500
		1977-78	$ 48,983,300
g.	Vocational Education	1976-77	$ 15,977,600
		1977-78	$ 16,077,400
h.	Vocational Rehabilitation	1976-77	$ 20,914,700
		1977-78	$ 22,723,800
27.	KENTUCKY EDUCATIONAL TELEVISION		
28.	HERITAGE COMMISSION	1976-77	$ 608,500
		1977-78	$ 672,000
29.	HISTORICAL SOCIETY	1976-77	$ 155,200
		1977-78	$ 161,400
30.	DEPARTMENT OF LIBRARY AND ARCHIVES	1976-77	$ 865,200
		1977-78	$ 865,200
31.	TEACHERS' RETIREMENT SYSTEM		
32.	COUNCIL ON PUBLIC HIGHER EDUCATION		
33.	HIGHER EDUCATIONAL ASSISTANCE AUTHORITY		
34.	COMMISSION OF HIGHER EDUCATION		
35.	UNIVERSITY OF KENTUCKY		
36.	UNIVERSITY OF LOUISVILLE		
37.	EASTERN KENTUCKY UNIVERSITY		
38.	WESTERN KENTUCKY UNIVERSITY		
39.	MOREHEAD STATE UNIVERSITY		
40.	MURRAY STATE UNIVERSITY		
41.	KENTUCKY STATE UNIVERSITY		
42.	NORTHERN KENTUCKY STATE COLLEGE		

D. HUMAN RESOURCES

43. DEPARTMENT FOR HUMAN RESOURCES

a. Bureau for Social Insurance

1976-77	$441,136,200
1977-78	$463,236,700

b. Bureau for Manpower Services

1976-77	$ 38,857,900
1977-78	$ 42,418,500

c. Bureau for Health Services

1976-77	$ 36,910,900
1977-78	$ 39,247,400

d. Bureau for Social Services

1976-77	$ 48,196,800
1977-78	$ 48,677,700

e. General Administration and Support

1976-77	$ 16,850,300
1977-78	$ 18,167,700

E. JUDICIARY

44. JUDICIARY

1976-77	$ 2,320,600
1977-78	$ 2,321,300

F. JUSTICE

45. DEPARTMENT OF JUSTICE

a. Bureau of Training

1976-77	$ 3,000
1977-78	$ 2,000

b. Bureau of Corrections

1976-77	$ 2,556,100
1977-78	$ 2,657,000

c. Bureau of State Police

1976-77	$ 225,100
1977-78	$ 225,100

d. Public Defender

1976-77	$ 1,500
1977-78	$ 1,500

e. General Administration and Support

1976-77	$ 10,690,700
1977-78	$ 10,560,800

G. NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION

46. DEPARTMENT FOR NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION

a. Bureau of Land Resources

1976-77	$ 1,720,100
1977-78	$ 1,720,100

b. Bureau of Environmental Quality

1976-77	$ 2,408,500
1977-78	$ 2,437,500

H. PUBLIC PROTECTION AND REGULATION

47. DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL

1976-77	$ 3,000
1977-78	$ 3,000

48. DEPARTMENT OF INSURANCE

49. DEPARTMENT OF LABOR
- a. Occupational Safety and Health
  - 1976-77 .... $ 2,955,500
  - 1977-78 .... $ 3,135,500
- b. Board of Claims
- c. Special Fund
- d. Elevator Safety
  - 1976-77 .... $ 16,000
  - 1977-78 .... $ 16,000
- e. Workmen's Compensation Board
  - 1976-77 .... $ 1,406,800
  - 1977-78 .... $ 1,520,300

For the general operations of the Workmen's Compensation Board and administrative services provided to the Board through the General Administration and Support program.

- f. Uninsured Employers Fund

50. DEPARTMENT OF MINES AND MINERALS
- 1976-77 .... $ 421,000
- 1977-78 .... $ 428,000

51. KENTUCKY QUARTER HORSE AND APPALOOSA COMMISSION

52. KENTUCKY STATE RACING COMMISSION

53. KENTUCKY HARNESS RACING COMMISSION

54. PUBLIC SERVICE COMMISSION
- 1976-77 .... $ 285,500
- 1977-78 .... $ 299,100

I. TRANSPORTATION

55. DEPARTMENT OF TRANSPORTATION
- a. Air Transportation
  - 1976-77 .... $ 206,000
  - 1977-78 .... $ 216,500
- b. Water Transportation
- c. Rail Transportation
- d. Mass Transportation
- e. General Administration
- f. Highways
  - 1f. Bureau of Highways
  - 2f. Bureau of Vehicle Regulation
    - 1976-77 .... $ 1,308,800
    - 1977-78 .... $ 1,297,200

PART III
TRANSPORTATION FUND

Monies in the Transportation Fund are appropriated for use by the Department of Transportation in its activities, functions, and duties performed by it as prescribed by law. The Transportation Fund shall consist of all the state revenues realized from fees, taxes, and license fees levied for state road purposes authorized by law, and any additional or other revenues, grants, or funds, including any amount which may be received from Federal aid, bond funds, General Funds appropriated, or any other sources pursuant to the provisions of KRS 177.030, made available for the construction or reconstruction of public roads or for any other of the activities administered by the Department of Transportation. Such receipts and revenues, and unappropriated non-General Fund surplus, together with any non-General Fund balance as of June 30, 1976, shall constitute the Transportation Fund for the fiscal years 1976-77 and 1977-78 respectively. An annual budget for each fiscal year shall be submitted by the Department of Transportation to the Executive Department for Finance and Administration for approval by June 1, 1976, for fiscal year 1976-77 and by June 1, 1977, for fiscal year 1977-78. The budget shall be based upon the most current State Road Fund estimates and Surplus, estimates of contractual and noncontractual Federal aid, General Fund appropriated, or funds and fees from any other source.

In the event the State Road Fund estimates are revised during the biennium the Department of Transportation shall submit its annual budget based upon the new estimates. These estimates are to be certified by the Commissioner of Revenue to the Commissioner for Finance and Administration and upon the approval of the Governor the Commissioner for Finance and Administration shall make the appropriate increases or decreases to the Department of Transportation's annual budget. If the State Road Fund estimates are increased or decreased during a fiscal year the Department of Transportation shall request from the Department for Finance and Administration with approval of the Governor authority to increase or decrease its annual budget in accordance with Part V, General Provisions, Section 9 of this Act. The following monies are appropriated from the State Road Fund.

A. TRANSPORTATION

1. DEPARTMENT OF TRANSPORTATION
   a. General Administration

1976-77	$ 28,826,800
1977-78	$ 30,984,000

   b. Highways
      1b. Bureau of Highways

1976-77	$282,908,200
1977-78	$290,801,000

         1a. Rural Highways

1.County Road Aid. For construction, reconstruction, improvement, and maintenance of county roads and bridges the designated portion of all revenue received pursuant to KRS 138.220 and 138.565 shall be expended in accordance with KRS 177.320(2). These funds shall be distributed in accordance with the formula prescribed by the provisions of KRS 177.360.

2.Rural Secondary Roads. For construction, reconstruction, and maintenance of rural and secondary roads, the designated portion of all revenue received pursuant to the provisions of KRS 138.220 and 138.565, shall be expended in accordance with KRS 177.320. These funds shall be distributed in accordance with the formula prescribed by the provisions of KRS 177.360.

1b. Municipal Aid. For the construction, reconstruction, and maintenance of urban roads, streets, and bridges, the designated amounts received pursuant to the provisions of KRS 138.220 and 138.565, shall be expended and distributed in accordance with KRS 177.365 through 177.368.

2. BUREAU OF VEHICLE REGULATION
   (Except Division of Water Enforcement)

1976-77	$ 960,000
1977-78	$ 960,000

Total - Highways

1976-77	$283,868,200
1977-78	$291,761,000

Total - Department of Transportation

1976-77	$312,695,000
1977-78	$322,745,000

PART IV
CAPITAL CONSTRUCTION FUND
A. GENERAL FUND

1. EXECUTIVE DEPARTMENT FOR FINANCE AND ADMINISTRATION

1975-76	$ 44,326,600
1976-77	$ 67,507,500
1977-78	$ 30,252,600

Monies are appropriated for capital projects consisting of general construction, renovation, maintenance, improvements, property acquisition, major items of equipment, excluding however consumable and other useable supplies, and administrative cost relating to the design, construction, and supervision of such capital projects, including, but not limited to, reclamation and industrial development projects and loans and grants in aid for capital purposes, KRS 45.040 notwithstanding.

All monies transferred to the Executive Department for Finance and Administration for capital construction from any appropriations, including income from investments, shall be expended, accounted for, and otherwise treated in the same manner as funds appropriated directly to the Executive Department for Finance and Administration for capital construction.

If at the end of any fiscal year the monies and securities to the credit of the State Fire and Tornado Insurance Fund exceed $2,000,000 and if conditions with respect to life and fire safety in state properties are such as not to require the expenditure of all excess funds for improvements to said conditions, then the Commissioner of the Executive Department for Finance and Administration, with the concurrence of the Commissioner of Insurance, shall determine the amount of such excess not so required and may authorize its transfer to the Capital Construction Fund, for expenditure in accordance with the provisions of Chapter 56 of the Kentucky Revised Statutes.

B. FEDERAL REVENUE SHARING

2. EXECUTIVE DEPARTMENT FOR FINANCE AND ADMINISTRATION

1976-77	$ 46,290,800
1977-78	$ 36,850,000

The receipt of Federal Revenue Sharing funds is dependent upon the extension by the United States Congress, of the State and Local Fiscal Assistance Act of 1972 or some other Federal Revenue Sharing proposal. In the event these monies, or any portion thereof, are not made available to the Commonwealth, the Commissioner of the Executive Department for Finance and Administration shall take appropriate action as required by Part V, General Provisions, Section 9 of this Act.

PART V
GENERAL PROVISIONS

1.

Nothing in this Act shall be construed to repeal any appropriation made hereinbefore or hereinafter for the fiscal year ending June 30, 1976, and nothing in this Act is to be construed as amending or altering the provisions of Chapters 42 and 45 of the Kentucky Revised Statutes pertaining to the duties and powers of the Commissioner of the Executive Department for Finance and Administration. All questions that arise in interpreting any appropriation in this Act as to the purpose or manner for which such appropriation may be expended shall be decided by the Commissioner for Finance and Administration in accordance with the detailed estimates embodied in the Executive Budget 1976-78 and supporting work papers, as considered by the General Assembly, and the decision of the Commissioner of the Executive Department for Finance and Administration shall be final and conclusive.

2.

In enacting this Appropriation Act, it is the deliberate intention of the General Assembly to enact each section, and each subsection thereof as a separate and/or specific appropriation and law, and if any section, any subsection, or any provision thereof shall be held invalid or unconstitutional, the decision of the courts shall not affect or impair any of the remaining sections, subsections, or provisions contained herein.

3.

The Commissioner of the Executive Department for Finance and Administration is authorized to establish a system or formula or a combination of both for pro-rating the administrative costs of the Department of Personnel, Executive Department for Finance and Administration, Treasury, and Law relative to the administration of programs in which there is joint participation by the State and Federal Governments for the purpose of receiving the maximum amount of participation permitted under the appropriate Federal laws and regulations governing such programs. Any reimbursements received from Federal Funds under this system or formula shall accrue to the General Fund and any system or formula for the proration shall be developed pursuant to the provisions of KRS 18.330.

4.

All continuing appropriations in existence at the time this Act takes effect are discontinued and repealed by this Act, notwithstanding any provisions of the Kentucky Revised Statutes to the contrary, except as provided by Chapters 12, 42, 56, 152, 177 and 341 of the Kentucky Revised Statutes. All laws and portions of laws in conflict with any of the provisions of this Section, to the extent of such conflict, are hereby repealed.

5.

At such time as the Congress of the United States may enact into law a provision increasing or extending coverage of Federal minimum wage requirements now in effect, the Commissioner of the Executive Department for Finance and Administration with the approval of the Governor, shall be authorized to pay, out of any available General Fund Surplus, to those state employees affected by such increase, an amount necessary to raise their respective compensation to a level consistent with the requirements of any such newly enacted provision increasing minimum wage requirements.

6.

Funds necessary to continue existing revolving accounts are appropriated for each fiscal year of the 1976-78 biennium. Any surplus funds in any such account at the closing of books for the fiscal year shall lapse. If any revolving account is abolished, or funds therein are lapsed during the 1976-78 biennium, such funds shall lapse to the General Fund if such General Funds were in part or in whole used to establish or sustain the revolving fund. If no general funds were involved, funds shall be returned to the original source.

7.

No state agency, cabinet, department, office or program shall incur any obligation against the general fund appropriations contained herein unless such obligation may be reasonably determined to have been contemplated in the Governor's budget proposal and is supported by appropriate work papers and other records pertaining thereto.

8.

Any appropriation made herein by the General Fund in anticipation of loss or reduction of Federal grants shall lapse to the General Fund to the extent such Federal funds otherwise become available.

9.

Whereas, inasmuch as the finances of the Commonwealth cannot be ascertained with absolute certainty at this time, and since the actual needs of each officer, cabinet, department, board, commission, institution, agency or other activity or subdivision of state government can only be anticipated and not finally determined by the General Assembly, and since the total amount of revenue accruing to the General Fund and to the Transportation Fund and accruing from various fees or from Federal funds from which appropriations are made can only be anticipated as being produced through existing laws and those that may hereafter be enacted, and recognizing the complex nature of the economy, it is the purpose and intention of this Act that the expenditures for each fiscal year shall not exceed the total financial resources accruing to any Fund, as defined in KRS Chapter 45, for the same fiscal year. As the conditions cannot be fully determined until after the adjournment of the 1976 General Assembly, and as the needs of each officer, cabinet, department, board, agency, commission, institution, subdivision or activity of state government, together with the total financial resources accruing to the General Fund and the Transportation Fund cannot be fully determined at this time, it is the intention and purpose of this General Assembly that the Commissioner of the Executive Department for Finance and Administration, with the advice of the Commissioner of the Department of Revenue, upon approval of the Governor of the Commonwealth, is authorized, empowered and directed to ascertain and determine the needs of each officer, cabinet, department, board, commission, institution, subdivision, agency or other activity of state government and to ascertain the total financial resources anticipated to be accrued to the General Fund and the Transportation Fund of the Commonwealth, and upon the ascertainment and determination of said facts, he, the Commissioner of the Executive Department for Finance and Administration, in the manner set forth as provided by general law, is authorized, empowered, and directed by the General Assembly to prevent an overdraft or deficit in any fiscal year for which appropriations are herein made, by equitably reducing, according to needs, without discrimination, the appropriations herein made from the General Fund and Transportation Fund to each officer, cabinet, department, board, commission, institution, subdivision, agency or other activity in state government, provided, however, that the power invested shall not permit any reduction of the appropriations of any officer, cabinet, department, board, commission, institution, subdivision, agency or other activity of state government that will actually impair the necessary constitutional functions of such agency or activity, the operations and functions of which are determined to be necessary constitutional functions of state government.

Calendar

HB 362, HB 469, HR 44, HB 355, HB 369, HB 423 with Committee Amendment attached thereto, **HB 466** with Committee Amendment attached thereto, **HB 100, HB 107, HB 122** with Committee Substitute attached thereto, **HB 134, HB 346, HB 313,** and **HB 226** with Committee Substitute attached thereto, taken from the Calendar and ordered read at length for the second time. Representative B. Richardson moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Motions, Petitions and Communications

Representative DeMarcus moved that a call of the roll indicating the members present be taken again. Agreed.

The roll call showed the following members absent: Representative Clapp and J. R. Turner.

The following members filed Floor Amendments to Bills: Representative Mason, Floor Amendment No. 1 to **HB 305,** Floor Amendment No. 1 to **HB 218,** Floor Amendment No. 1 to **HB 83;** Representative B. Adams, Floor Amendment No. 1 to **HB 280;** Representative Robinson, Floor Amendment No. 1 to **HB 57.**

Representative Tobin moved the adoption of the following Legislative Citation No. 26:

The House of Representatives of the Kentucky hereby honors the memory of Daniel Lynn Bolin of Irvington, Kentucky. This body commemorates the contributions of Daniel Lynn Bolin to the Breckinridge County Library and acknowledges his many outstanding scholastic achievements while at Breckinridge County High School and Michigan State University. The Commonwealth grieves its loss of a fine Kentucky youth and offers its condolences to this family. (Sponsored by Representative Tobin)

Agreed.

Representative Mann moved the adoption of the following Legislative Citation No. 27:

The House of Representatives of the Commonwealth of Kentucky hereby honors Newport High School of Newport, Kentucky for its One Hundreth Commencement. In this year of our nation's bicentennial, the many Kentuckians who have graduated from this fine school and the students of Newport who attend it today regard with pride Newport High School's years of achievement and service to the community. (Sponsored by Representative Mann)

Agreed.

Representative P. Richardson moved the adoption of the following Legislative Citation No. 25:

The House of Representatives of the Commonwealth of Kentucky hereby honors French W. and Nancy Clay Rickard of Winchester, Kentucky. This body commends the Rickards for their contributions to the Commonwealth in the establishing of F. W. Rickard Seed, Inc. in 1937 which has distinquished itself as the world's number one burley tobacco seed producer. This body further recognizes the Rickard family as the Clark County Family of the Day for February 20, 1976. (Sponsored by Representative P. Richardson)

Agreed.

Representative Foster moved that **HB 2** be withdrawn. Agreed.

Representative Mason moved that **HB 83** be taken from the Clerk's desk and placed in Orders of the Day. Agreed.

A special meeting of the Committee on Judiciary-Statutes was announced for Monday, February 23, 1976, 2:00 p.m., Room 307.

Representative Hopkins moved that a call of the roll be taken to show the individual position of members on forced busing.

Representative DeMarcus moved that the house proceed to the next order of business in accordance with the prevailing rules of the House allowing thirty minutes for Motions, Petitions and Communications.

Orders of the Day

HCR 23 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage.

Representative Hughes appealed the ruling of the Chair that the motion that the House proceed to the next order of business was in order. (Appeal was signed by Representatives Overstreet, Priddy, Dawahare).

The Speaker ruled Representative Hughes' motion out of order, since other business had transpired.

Representative Hughes appealed the ruling of the Chair that the first appeal was out of order. (Appeal was signed by Representatives Overstreet, Priddy, Dawahare).

The Speaker vacated the Chair.

Representative B. Richardson presiding.

Representative Morgan moved that the ruling of the Chair be sustained.

On the roll call the vote was yeas 65-B. Adams, J. Allen, Arnold, Bendl, Benson, Bevins, Blume, Brown, Bruce, Carpenter, Clarke, Cooper, Craddock, Crupper, Cyrus, DeMarcus, Denham, Deskins, Dietz, Donnermeyer, Fitzgerald, Foster, Freeman, Gay, Givhan, Hancock, Head, Holbrook, Hopkins, Isler, Jones, Kenton, Kidd, King, Kleier, LeMaster, Little, Mann, Mason, May, McBee, McBride, McGill, Morgan, Morris, Muncy, Nett, Pearl, Richards, B. Richardson, P. Richardson, Sale, Schmidt, Siemens, Siler, Stephens, Stewart, Tobin, Thomas, R. Turner, Vincent, Wells, White, Wible, Wooden. Nays 17-Ackerson, Bennett, Beshear, Burnette, Dawahare, DeFalaise, Dunn, Gray, Guenthner, Hughes, Imes, O'Brien, Priddy, Robinson, Romines, Wright, Yates.

The ruling of the Chair was sustained.

HCR 23 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Wright moved that **HCR 23** be passed.

Representative Mann moved that **HCR 23** be laid on the table.

On the roll call the vote was yeas 20-Bendl, Benson, Beshear, Blandford, Blume, Blythe, Clarke, Fitzgerald, Gray, Hancock, Kidd, King, Mann, McBride, McGill, Nett, Pearl, Stewart, Tobin, White. Nays 50-Ackerson, A. S. Adams, J. Allen, W. Allen, Bennett, Boatwright, Brinkley, Bruce, Burnette, Cooper, Crupper, Cyrus, Dawahare, DeMarcus, Denham, Deskins, Donnermeyer, Dunn, Floyd, Freeman, Gay, Guenthner, Hardwick, Head, Holbrook, Holloway, Hopkins, Hughes, Hurst, Imes, Little, Mason, May, Maynard, McBee, Morris, Muncy, O'Brien, Overstreet, Priddy, Rattliff, Robinson, Romines, Siemens, Siler, Stephens, Vincent, Wible, Wright, Yates.

The motion was **HCR 23** be laid on the table was rejected.

Representative Nett moved that **HCR 23** be laid on the Clerk's desk.

On the roll call the vote was yeas 21-Bendl, Benson, Beshear, Blandford, Blume, Clarke, Crupper, Fitzgerald, Foster, Gray, Kidd, King, Kleier, Mann, Mason, McBride, McGill, Nett, Pearl, Tobin, Wooden. Nays 47-Ackerson, A. S. Adams, J. Allen, W. Allen, Bennett, Boatwright, Brinkley, Burentte, Cooper, Cyrus, Dawahare, DeMarcus, Denham, Deskins, Donnermeyer, Dunn, Floyd, Freeman, Gay, Guenthner, Hardwick, Head, Holbrook, Holloway, Hughes, Hurst, Imes, Jones, Lindsay, Little, May, Maynard, McBee, Muncy, O'Brien, Overstreet, Priddy, Rattliff, P. Richardson, Robinson, Romines, Siemens, Stephens, Vincent, Wible, Wright, Yates.

The motion that **HCR 23** be laid on the Clerk's desk was rejected.

On the roll call the vote was yeas 53-Ackerson, B. Adams, A. S. Adams, J. Allen, W. Allen, Arnold, Bennett, Blythe, Boatwright, Brinkley, Bruce, Burnette, Carpenter, Cooper, Crupper, Dawahare, DeMarcus, Denham, Deskins, Donnermeyer, Dunn, Floyd, Foster, Freeman, Gay, Guenthner, Head, Holbrook, Holloway, Hopkins, Hughes, Hurst, Imes, Little, May, Maynard, McBee, Muncy, O'Brien, Overstreet, Priddy, Rattliff, Richards, Robinson, Romines, Sale, Siemens, Siler, Stephens, Vincent, Wible, Wright, Yates. Nays 20-Bendl, Benson, Beshear, Blandford, Blume, Clarke, Fitzgerald, Givhan, Hancock, Jones, Kenton, Kidd, Kleier, Mann, Mason, McGill, Morris, Pearl, B. Richardson, Tobin.

HCR 23 was passed and the title agreed to.

Representative Wright moved that the vote by which **HCR 23** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HCR 5 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Yates moved that **HCR 5** be adopted.

On the roll call the vote was yeas 80-Ackerson, B. Adams, A. S. Adams, J. Allen, W. Allen, Arnold, Bendl, Bennette, Blandford, Blythe, Boatwright, Brinkley, Bruce, Burnette, Carpenter, Cooper, Craddock, Crupper, Cyrus, Dawahare, DeFalaise, DeMarcus, Denham, Deskins, Dietz, Donnermeyer, Dunn, Fitzgerald, Floyd, Foster, Freeman, Gay, Givhan, Gray, Guenthner, Hancock, Hardwick, Head, Holloway, Hopkins, Hughes, Hurst, Imes, Isler, Jones, Kenton, King, LeMaster, Lindsay, Little, Mason, May, Maynard, McBee, Morris, Muncy, Nett, O'Brien, Overstreet, Pearl, Priddy, Rattliff, Richards, B. Richardson, Robinson, Romines, Sale, Schmidt, Siemens, Siler, Stephens, Stewart, Thomas. Vincent, Wells, White. Wible, Wooden, Wright, Yates. Nays 10-Benson, Beshear, Blume, Clarke, Holbrook, Kidd, Mann, McBride, McGill, Tobin.

HCR 5 was adopted and the title agreed to.

Representative Yates moved that the vote by which **HCR 5** was adopted be reconsidered and said motion be postponed indefinitely. Agreed.

HCR 6 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Yates moved that **HCR 6** be adopted.

On the roll call the vote was yeas 38-Ackerson, W. Allen, Bennett, Brinkley, Burnett, Cooper, Crupper, Cyrus, Deskins, Dietz, Donnermeyer, Dunn, Freeman, Gray, Guenthner, Hardwick, Head, Holloway, Hughes, Isler, Little, Mann, May, Maynard, McBee, Morris, Nett, O'Brien, Priddy, Robinson, Romines, Schmidt, Stephens, Tobin, Vincent, Wooden, Wright, Yates. Nays 46-B. Adams, J. Allen, Bendl, Benson, Beshear, Bevins, Blandford, Blume, Blythe, Boatwright, Carpenter, Clarke, Craddock, Dawahare, DeFalaise, DeMarcus, Denham, Fitzgerald, Foster, Givhan, Hancock, Holbrook, Hopkins, Imes, Jones, Kenton, Kidd, King, LeMaster, Mason, McBride, McGill, Morgan, Muncy, Overstreet, Pearl, Richards, B. Richardson, P. Richardson, Sale, Siemens, Siler, Thomas, Wells, White, Wible.

HCR 6 was rejected.

HB 193 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hughes moved the adoption of the following Floor Amendment No. 1 to **HB 193:**

Amend printed copy of House Bill 193 on page 1, line 16-18, by deleting the words "students shall be permitted to attend the public school that is chosen by their parents or legal guardian" and inserting in lieu thereof the words "parents or legal guardians shall be permitted to enroll for attendance their children in the public school nearest their home".

Agreed.

Representative Priddy moved the adoption of the following Floor Amendment No. 3 to **HB 193:**

Amend printed copy of House Bill 193 on page 1, line 18, by adding following said line, the following:

"Section 2. Whereas, thousands of school pupils presently are required to leave their homes and return thereto several hours prior to and following regular school hours, thereby disrupting their lives and the lives of their familes, an emergency is hereby declared to exist, and this Act shall become effective upon its passage and approval by the Governor."

On the roll call the vote was yeas 44-Ackerson, B. Adams, J. Allen, W. Allen, Bennett, Blume, Burnette, Cooper, Craddock, Crupper, Cyrus, Dawahare, DeFalaise, Deskins, Freeman, Gay, Guenthner, Head, Holloway, Hopkins. Hughes, Hurst, Imes, Isler, King, Little, Mann, Mason, May, Maynard, McBride, Morgan, Muncy, O'Brien, Priddy, B. Richardson, Robinson, Romines, Siemens, Siler, Stewart, Vincent, Wright, Yates. Nays 12-Benson, Beshear, Carpenter, Dunn, Gray, Hancock, Kidd, McGill, Nett, Stephens, Tobin, Wible.

Floor Amendment No. 3 to **HB 193** was adopted.

Representative Hughes moved that **HB 193,** as amended, be passed.

Representative Nett moved that **HB 193,** as amended, be laid on the table.

On the roll call the vote was yeas 18-Benson, Beshear, Blandford, Blume, Carpenter, Clarke, Hardwick, Kidd, Mann, Mason, McBee, McBride, McGill, Nett, Pearl, Stephens, Tobin, Wible. Nays 43-Ackerson, A. S.

Adams, J. Allen, Arnold, Bennett, Boatwright, Brinkley, Burnette, Dawahare, DeFalaise, Deskins, Donnermeyer, Dunn, Freeman, Gay, Gray, Guenthner, Head, Holbrook, Holloway, Hopkins, Hughes, Hurst, Imes, Isler, Little, May, Maynard, Morgan, Muncy, O'Brien, Overstreet, Priddy, Rattliff, Richards, Robinson, Romines, Siemens, Siler, Vincent, White, Wright, Yates.

The motion that **HB 193,** as amended, be laid on the table was rejected.

On the roll call the vote was yeas 53-Ackerson, A. S. Adams, J. Allen, W. Allen, Arnold, Bennett, Blythe, Boatwright, Brinkley, Brown, Burnette, Cyrus, Dawahare, DeFalaise, DeMarcus, Denham, Deskins, Dietz, Donnermeyer, Dunn, Floyd, Foster, Freeman, Gay, Gray, Guenthner, Hardwick, Head, Holloway, Hopkins, Hughes, Hurst, Imes, Isler, Little, Mason, May, Maynard, Morgan, Morris, Muncy, O'Brien, Overstreet, Priddy, Rattliff, Robinson, Romines, Siemens, Siler, Vincent, Wells, Wright, Yates. Nays 18-Benson, Beshear, Blandford, Blume, Carpenter, Clarke, Hancock, Holbrook, Kidd, Mann, McBee, McBride, McGill, Nett, Pearl, P. Richardson, Tobin, Wible.

HB 193, as amended, was passed and the title agreed to.

Representative Hughes moved that the vote by which **HB 193,** as amended, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Report on Enrolled Bills

The Committee on Enrollment reported **HB 91** and **HB 180** had been examined and found correctly enrolled. **HB 91** and **HB 180** read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate.

Announcements

The following members filed requests with the Clerk to have their names added as co-sponsors of Bills and Resolutions: Representative Imes, **HB 550;** Representative Romines, **HB 270;** Representative Givhan, **HB 35;** Representative Foster, **HB 396;** Representative Ackerson, **HCR 5, HCR 6, HCR 23, HB 193.**

Adjournment

Representative B. Richardson moved that the House adjourn until 4:00 p.m., Monday, February 23, 1976.

On the roll call the vote was yeas 50-B. Adams, W. Allen, Arnold, Bendl, Bennett, Beshear, Bevins, Brinkley, Brown, Carpenter, Clarke, Craddock, Crupper, Cyrus, DeMarcus, Denham, Donnermeyer, Doss, Foster, Hancock, Hardwick, Head, Holbrook, Hughes, Hurst, Kenton, King, Kleier, LeMaster, Mason, May, Maynard, McBee, McBride, McGill, Morgan, Muncy, Nett, O'Brien, Overstreet, Pearl, B. Richardson, Robinson, Sale, Schmidt, Siemens, Siler, Tobin, Vincent, Wible. Nays 13-Blythe, DeFalaise, Deskins, Gray, Guenthner, Imes, Isler, Mann, Priddy, P. Richardson, Stephens, White, Wright.

The motion to adjourn was adopted.

MONDAY, FEBRUARY 23, 1976

THIRTY-SEVENTH LEGISLATIVE DAY

The House was called to order by Speaker Kenton.

Prayer by Father Carl Schaffer, Church of the Good Shepherd, Frankfort.

The roll was called. All present except Representatives Clapp, DeFalaise, Holloway, and Kidd.

Representative Isler moved that absent members be granted leave of absence in accordance with the prevailing rules of the House. Agreed.

Representative Hughes moved that the reading of the Journal of February 20, 1976, be dispensed with and the same approved. Agreed.

Report on Enrolled Bills

HB 91 and **HB 180** delivered to the Senate, signed by President. Ordered delivered to the Governor.

Introduction of Bills and Resolutions

HR 58, by Representative Hancock: A RESOLUTION directing a study by the Legislative Research Commission of regulation of the building and housing industry in Kentucky.

HR 59, by Representative Little: A RESOLUTION directing the Legislative Research Commission to study the system of ad valorem taxation of minerals.

HB 600, by Representative Bruce: AN ACT relating to the Kentucky Insurance Guaranty Association.

HB 601, by Representatives Siler, Muncy, A. S. Adams, W. Allen, Bennett, Blair, Hopkins, Little, and Schmidt: AN ACT relating to higher education assistance.

HB 602, by Representative Deskins: AN ACT relating to the mining of coal and clay.

HB 603, by Representatives Priddy, Hughes, Bennett, Burnette, Cyrus, Dunn, Guenthner, Imes, Romines, and Wright: AN ACT relating to the abolishment of the Human Rights Commission.

HB 604, by Representatives Priddy, Romines, Bennett, Burnette, Holloway, Hughes, Imes, Wright, and Yates: AN ACT relating to school boards.

HB 605, by Representative Blandford: AN ACT relating to taxes.

HB 606, by Representative McBee: AN ACT relating to fees.

HB 607, by Representative Dawahare: AN ACT relating to administration regulations.

HB 608, by Representative Dawahare: AN ACT relating to harassing communications.

HB 609, by Representative B. Richardson: AN ACT relating to uninsured and unreimbursed savings deposits.

HB 610, by Representative Yates: AN ACT relating to the collection of taxes for fire protection.

HB 611, by Representative Brown: AN ACT relating to selection of jurors.

HB 612, by Representative Wooden: AN ACT relating to trade practices.

HB 613, by Representative Beshear: AN ACT relating to financing the expansion of the neonatal intensive care unit at the University of Kentucky Albert B. Chandler Medical Center.

HB 614, by Representative DeMarcus: AN ACT relating to workmen's compensation.

HB 615, by Representative Overstreet: AN ACT changing the classification of the city of Columbia in Adair County.

HB 616, by Representatives J. Allen and Deskins: AN ACT relating to public records.

HB 617, by Representatives Siemens, Benson, and Ackerson: AN ACT relating to criminal procedure.

HB 618, by Representative Mann: AN ACT relating to motor vehicles.

HB 619, by Representative Mann: AN ACT relating to supplemental pay for firefighters.

HB 620, by Representative Wooden: AN ACT relating to constables and deputy constables.

HB 621, by Representative Wooden: AN ACT relating to traffic regulations.

HB 622, by Representative Dawahare: AN ACT relating to economic development.

HB 623, by Representatives Schmidt and Clarke: AN ACT relating to state purchases.

HB 624, by Representatives Blythe and Bendl: AN ACT relating to holidays.

HB 625, by Representative Morgan: AN ACT relating to state retirement systems.

HB 626, by Representative Lindsay: AN ACT relating to strip mining.

HB 627, by Representative Lindsay: AN ACT relating to county offices and officers.

HB 628, by Representative Lindsay: AN ACT relating to revenue and taxation.

HB 629, by Representative Lindsay: AN ACT relating to liqueifed petroleum gas.

HB 630, by Representative Givhan: AN ACT proposing an amendment to Section 63 of the Constitution of Kentucky relating to the abolishment of Jefferson County, annexing Jefferson County to Bullitt County and declaring Shepherdsville as the county seat.

HB 631, by Representative Givhan: AN ACT relating to changing the classification of the City of Hillview, in Bullitt County.

HB 632, by Representative Benson: AN ACT relating to offices of the commonwealth's attorneys.

HB 633, by Representative White: AN ACT relating to non-certified school board employes.

HB 634, by Representatives Donnermeyer and Schmidt: AN ACT relating to barbering.

HJR 60, by Representatives Stephens and Kenton: A JOINT RESOLUTION concerning the right of exceptional children in Kentucky to a free public education and directing the state board of education to provide such education.

HJR 61, by Representative Stephens: A JOINT RESOLUTION directing the Legislative Research Commission through the members and staff of the Interim Joint Committee on Education, to study certain issues related to education.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Natural Resources: **HB 592.**

Appropriations and Revenue: **HB 591, SB 1, HB 609.**

Banking and Insurance: **SB 136.**

Business Organizations and Professions: **HB 598.**

Cities: **HB 593.**

Counties and Special Districts: **HB 594.**

Education: **HB 590, HB 597, SB 157, SB 173.**

Elections and Constitutional Amendments: **SB 176.**

Health and Welfare: **HB 589, SB 172.**

Judiciary-Courts: **HB 596, SB 160.**

Judiciary-Statutes: **HB 599, SB 58, SB 121.**

Public Utilities and Transportation: **HB 595.**

State Government: **HB 625.**

Senate Message

Announcing passage of **SB 50, SB 84, SB 147, SB 190,** and **HB 212,** by way of Senate Committee Substitute.

Recess

Representative B. Richardson moved that the House recess for five minutes. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Report of Committees

The Committee on Judiciary-Statutes reported **HB 251, HB 285, HB 370, HB 496,** and **SB 20** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 251, AN ACT relating to transfer of prisoners to state hospital.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 202 is created to read as follows:

(1) Whenever an inmate of any jail or juvenile facility is reported by the staff of that institution to the county judge of the county wherein the facility is located as being so mentally defective or mentally ill that he will cause injury to himself or others and that he cannot be properly treated with the facilities at the disposal of the physician, the county judge shall order that a mental examination be conducted on such inmate by a

physician of the regular state hospital service.

(2) When an examination is ordered under subsection (1), the county judge shall designate a competent person from the county in which the person is incarcerated to convey the person to the institution, and only the actual traveling expenses of conveying any person to the institution shall be paid. The court which orders any person to a hospital under this provision shall at once notify the hospital that such order has been made and advising of the sex and condition of the person.

(3) The inmate shall be examined at the state hospital most convenient to the county where incarcerated. Any inmate ordered to a hospital pursuant to this provision shall be examined by an authorized staff physician of the hospital as soon as practicable but not more than forty-eight (48) hours after his arrival.

(4) If the examination reveals that the inmate is in need of observation and treatment on account of mental deficiency or mental illness, he shall remain, or be transferred to another state hospital where such observation and treatment can most properly be administered. Upon such admission the hospital shall notify the court which has jurisdiction of such administration.

(5) The inmate admitted under subsection (4) shall remain until the staff of the hospital which received him advises the court that his condition has so far improved that he may be returned to the facility from which he came without special jeopardy to his mental health or to the discipline and conduct of the facility.

(6) Should hospitalization of an inmate extend for a period of sixty (60) days or if the sentence which the inmate had been serving at the time of his hospitalization expires and he is still mentally ill or mentally defective and fit subject for commitment to a state hospital or institution, the staff of the hospital shall notify the court having jurisdiction and immediately commence proceedings for involuntary hospitalization.

(7) During the time of inmate's stay in a state hospital his legal status as a prisoner shall remain unchanged until the termination of his sentence. The hospital staff shall have no authority to parole him, grant him permission to visit relatives or friends outside the hospital, or discharge him. The time an inmate spends in a state hospital shall be counted as a part of his prison sentence or it shall be deemed as jail credit.

HB 285, AN ACT relating to liability to trespassers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 381 is created to read as follows:

(1) A "trespasser" means any person who enters or goes upon the real estate of another without any right, lawful authority or invitation, either expressed or implied, but does not include persons who come within the scope of the "attractive nuisance" doctrine.

(2) An owner of real estate means any person who possesses any interest in real estate or any lawful occupant of real estate.

Section 2. A new section of KRS Chapter 381 is created to read as follows:

The owner of real estate shall not be liable to any trespasser for injuries sustained by the trespasser on the real estate of the owner, except for injuries which are intentionally inflicted by the owner or someone acting for the owner.

HB 370, AN ACT relating to indigent persons accused of serious crime.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 31.120 is amended to read as follows:

(1) The determination of whether a person covered by KRS 31.110 is a needy person shall be deferred until his first appearance in court or in a suit for payment or reimbursement under KRS 31.170, whichever occurs earlier. Thereafter, the court concerned shall determine, with respect to each proceeding, whether he is a needy person. However, nothing herein shall prevent appointment of counsel at the earliest necessary proceeding at which said person is entitled to counsel, upon declaration by said person that he is needy under the terms of this chapter. In such event the person involved may be required to make reimbursement for the representation involved if he later is determined not a needy person under the terms of this chapter.

(2) In determining whether a person is a needy person and in determining the extent of his inability to pay, the court concerned may consider such factors as income, property owned, outstanding obligations, and the number and ages of his dependents. Release on bail does not necessarily prevent him from being a needy person. In each case, the person, subject to the penalties for perjury, shall certify *by affidavit of indigency*

[in writing or by other record] such material factors relating to his ability to pay as the court prescribes.

(3) To the extent that a person covered by KRS 31.110 is able to provide for an attorney, the other necessary services and facilities of representation, and court costs, the court may order him to provide for their payment.

(4) The affidavit of indigency shall be as set out herein:

Commonwealth of Kentucky
County of ________________

Affiant --------------, being first duly sworn says that he is not now represented by private counsel and that he does not have the money or assets out of which to employ one; that he is indigent and requests the court to appoint counsel.

Affiant states that his income is ---------; that he owns the following property:

Description	Value
______________	______________
______________	______________
______________	______________;

that he has the following dependents:

Name	Age	Relationship
______________	_______	______________
______________	_______	______________
______________	_______	______________;

and that he has the following obligations:

To whom owed	Amount owing
______________	______________
______________	______________
______________	______________.

Signature of affiant

Subscribed and sworn to before me this ------, day of -----------, 19--.

Signature and title of officer
administering the oath

HB 496, AN ACT relating to actions against the Commonwealth of Kentucky.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 44.270 is amended to read as follows:

(1) Any person, firm or corporation, having a lawfully authorized written contract with the commonwealth at the time of or after June 21, 1974, may bring an action against the commonwealth on the contract, *including but not limited to actions either for breach of contracts or for enforcement of contracts or for both.* [in the Franklin Circuit Court.] Any such action shall be *brought in the Franklin Circuit Court and shall be tried by the court sitting without a jury.* [tried by the court sitting without a jury.] All defenses in law or equity, except the defense of governmental immunity, shall be preserved to the commonwealth.

(2) If damages awarded on any contract claim under this section exceed the original amount of the contract, such excess shall be limited to an amount which is equal to the amount of the original contract.

SB 20, AN ACT relating to the operation of motor vehicles.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 186.565 is amended to read as follows:

(1) Any person who operates a motor vehicle in this state is deemed to have given his consent to a chemical test of his blood, breath, urine or saliva for the purpose of determining the alcoholic content of his blood, if arrested for any offense arising out of acts alleged to have been committed while the person was driving or in actual physical control of a motor vehicle in this state while under the influence of intoxicating beverages. The test shall be administered at the direction of a law enforcement officer having reasonable grounds to believe the person to have been driving or in actual physical control of a motor vehicle in this state

while under the influence of intoxicating beverages. The law enforcement agency by which the officer is employed shall designate which of the aforesaid tests shall be administered, and provide necessary equipment.

(2) Any person who is dead, unconscious or who is otherwise in a condition rendering him incapable of refusal, is deemed not to have withdrawn the consent provided in subsection (1) of this section and the test may be given.

(3) If a person under arrest refuses upon the request of a law enforcement officer to submit to a chemical test designated by the law enforcement agency as provided in subsection (1) of this section, the requesting officer shall warn the person of the effect of his refusal to submit to the test. If the person again refuses, none shall be given, but the department of transportation, upon the receipt of a sworn report of the law enforcement officer that he had reasonable grounds to believe the arrested person had been driving or was in actual physical control of a motor vehicle in this state while under the influence of intoxicating beverages, that the person refused to submit to the test upon the request of the law enforcement officer, and that the person again refused to submit to the test after the law enforcement officer warned him of the effect of his refusal, *the department shall immediately serve notice upon said person in writing by mailing the notice to the person by certified or registered mail to the last known residence address of the person or if the address is unknown, to the last known business address of the person to appear before the secretary or his duly authorized agent and show cause why his license to operate a motor vehicle, or if said person is a nonresident his privilege to operate a motor vehicle within this state should not be revoked; or if the person is a resident without a license or permit to operate a motor vehicle in this state why that person should not be denied the issuance of a license or permit. The hearing shall be scheduled as early as practical; but not sooner than ten (10) days after the issuance of the notice and at a time and place designated by the secretary* [shall revoke the license or permit of the person refusing to take the test for a period of not more than six (6) months; or if the person arrested be a nonresident, his operating permit or privilege shall be revoked for not more than six (6) months; or if the person is a resident without a license or permit to operate a motor vehicle in this state, the department shall deny to the person the issuance of a license or permit for a period of six (6) months after the date of the alleged violation, subject to review as hereinafter provided].

(4) *For the purpose of the hearing, held in accordance with the order to show cause, the secretary may appoint an examiner who shall have the power to preside at the hearing. Upon the hearing the secretary or his duly authorized agent may administer oaths and may issue subpoenas for the attendance of witnesses and the production of relevant books and papers and may require a re-examination of the licensee. The scope of the hearing shall cover the issues of whether a law enforcement officer had reasonable grounds to believe the person had been driving or was in actual physical control of a motor vehicle in this state while under the influence of intoxicating beverages, whether the person was placed under arrest, and whether he refused to submit to the test upon request of the officer. All testimony at the hearing shall be recorded. The secretary's ruling shall include a statement of the findings of fact, rulings of law and other matters pertinent to the question at issue. The secretary within ten days after the completion of the hearing shall order either; that the person's license to operate a motor vehicle, or, if the person is a nonresident, his privilege to operate a motor vehicle within this state be revoked for a period of not more than six months or if the person is a resident without such license that there should be a denial of issuance of a license for a period of not more than six months; or that no action be taken regarding said person's privilege to operate a motor vehicle. The secretary shall immediately notify the person of his ruling in writing by certified or registered mail. If the person shall fail to attend the show cause hearing without good cause shown the secretary shall forthwith revoke the persons license or privilege to operate a motor vehicle or deny issuance of a permit or operators license.*

[Upon revoking the license or permit to drive or nonresident operating privilege of any person, or upon determining that the issuance of a license or permit shall be denied to the person, the commissioner of the department of public safety shall immediately notify the person in writing by mailing the notice to the person by certified or registered mail to the last known residence address of the person, or, if the address is unknown, to the last known business address of the person. Within ten (10) days after receiving the notice, the person may request a hearing before the commissioner. Request for a hearing does not suspend the order of revocation. The hearing shall be scheduled as early as practical within not to exceed twenty (20) days after receipt of such request at a time and place designated by the commissioner. The notice of hearing shall be served in the same manner as the notice of revocation or denial of a license. For the purpose of the hearing, the commissioner may appoint an examiner who shall have power to preside at the hearing. Upon the hearing the commissioner or his duly authorized agent may administer oaths and may issue subpoenas for the attendance of witnesses and the production of relevant books and papers and may require a re-examination of the licensee. The scope of the hearing shall cover the issues of whether a law enforcement officer had reasonable grounds to believe the person had been driving or was in actual physical control of a motor vehicle in this state while under the influence of intoxicating beverages, whether the person was placed under arrest, and whether he refused to submit to the test upon request of the officer. All testimony at the hearing shall be recorded. The commissioner's ruling shall include a statement of the findings of fact, rulings of law and other matters pertinent to the question at issue. The commissioner within ten (10) days after the completion of the hearing shall order that the revocation or determination that there should be a denial of issuance either be rescinded or sustained. The commissioner shall immediately notify the person of his ruling in writing by certified or registered mail.]

(5) If the revocation or determination that there should be a denial of issuance is sustained after the hearing, the person whose license or permit to drive or nonresident operating privilege has been revoked, or to whom a license or permit is denied, under the provisions of this section, may file a petition in the circuit court of the county in which the person resides or in the circuit court of the county in which the alleged offense was committed or in Franklin Circuit Court to review the final order of revocation or denial by the secretary within twenty (20) days after the final order has been issued. *The perfected appeal suspends the order of revocation pending a final determination of the review. If the final judgment of the court finds against the person appealing, the period of revocation is determined by taking into account the period of time during which the revocation was effective before the appeal was perfected. The department of transportation shall file with its answer a copy of the secretary's ruling and a transcript of evidence. The court's review is limited to whether the secretary's ruling is supported by substantial evidence and whether his action is arbitrary or capricious. An appeal to the Court of Appeals suspends the order of revocation pending a final determination of the review. If the final judgment of the court finds against the person appealing, the period of revocation is determined by taking into account the period of time during which the revocation was effective before the appeal was perfected.* [The appeal does not suspend the order of revocation unless a stay thereof is allowed by the court pending a final determination of the review. If a stay is allowed, and the final judgment of the court finds against the person appealing, the period of revocation is determined by taking into account the period of time during which the revocation was effective before the stay was granted. The department of public safety shall file with its answer a copy of the commissioner's ruling and a transcript of evidence. The court's review is limited to whether the commissioner's ruling is supported by substantial evidence and whether his action is arbitrary or capricious. An appeal to the Court of Appeals does not suspend the order of revocation unless a stay thereof is allowed by the court pending a final determination of the review. If a stay is allowed, and the final judgment of the court finds against the person appealing, the period of revocation is determined by taking into account the period of time during which the revocation was effective before the stay was granted.]

(6) When it has been finally determined that a nonresident's privilege to operate a motor vehicle in this state has been revoked, the department shall give information in writing of the action taken to the motor vehicle administrator of the state of the person's residence and of any state in which he has a license.

The provisions of this Act shall not apply to a person who refuses to submit to a chemical test of his blood, breath, urine or saliva if that person has enrolled in a driver's education program under the terms and conditions of KRS 186.560(4) and rules and regulations adopted thereunder.

Section 2. Whereas the constitutionality of KRS 186.565 has been successfully challenged in the courts, an emergency is declared to exist and this Act shall become effective upon passage and approval by the Governor.

The Committe on Rules reported **HR 44, HB 134, HB 353, HB 355, HB 369,** and **HB 469** have been posted for passage in Orders of the Day, February 24, 1976.

The Committee on Rules reported **HB 30,** with Committee Substitute attached thereto, has been recommitted to the Committee on State Government.

The Committee on Rules reported the following Bills were recommitted on February 19, 1976, as follows:

HB 25 to the Committee on Appropriations and Revenue.

HB 35, with Committee Amendment attached thereto, to the Committee on State Government.

HB 282, with Committee Amendment attached thereto, to the Committee on Counties and Special Districts.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for consideration:

Appropriations and Revenue: **HB 609.**

Banking and Insurance: **SB 60.**

Business Organizations and Professions: **HB 485.**

Health and Welfare: **HB 478, HB 489, HB 488.**

Highways and Traffic Safety: **HB 322.**

Judiciary-Courts: **HB 587, HB 544, SB 159.**

Judiciary-Statutes: **HB 525, HB 159, HB 550.**

Public Utilities and Transportation: **HB 562.**

Calendar

HB 374 taken from the Calendar and ordered read at length for the second time. Representative B. Richardson moved that it be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Motions, Petitions and Communications

The following members filed Floor Amendments to Bills: Representative Morgan, No. 1 to **HB 303;** Representative B. Richardson, No. 1 to **HB 71;** Representative Bennett, No. 2 to **HB 121;** Representative Nett, No. 2 to **HB 57;** Representative B. Richardson, No. 1 to **HB 253;** Representative Maynard, No. 1 to **HB 343.**

Orders of the Day

HB 57, with Committee Substitute attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative B. Richardson moved the adoption of the Committee Substitute for **HB 57.** Agreed.

Representative Robinson moved the adoption of the following Floor Amendment No. 1 to the Committee Substitute for **HB 57:**

Amend printed copy of Committee Substitute for House Bill 57 on page 2, lines 2 through 5:

After the ";" on line two delete the following language on lines 2 thru 5, "six (6) members with each being an elected official from a city of the first through the sixth class from a list submitted by the Municipal League" and after the ";" on line 2 insert the following language in lieu thereof "six (6) members with one each representing a city of the first through sixth class respectively and each of whom shall be an elected official of their respective cities, all of whom shall be selected from a list submitted by the Municipal League"

Agreed.

Representative B. Richardson moved that **HB 57,** by way of Committee Substitute as amended, be passed.

Representative Nett moved that consideration of **HB 57,** by way of Committee Substitute as amended, be deferred and that it retain its position in Orders of the Day.

On the roll call the vote was yeas 7-Ackerson, Guenthner, Holbrook, Kleier, Nett, Robinson, Wooden. Nays 67-B. Adams, A. S. Adams, J. Allen, Arnold, Bendl, Benson, Bevins, Blair, Blandford, Blume, Blythe, Boatwright, Brinkley, Bruce, Burnette, Craddock, Crupper, Cyrus, Dawahare, DeMarcus, Denham, Deskins, Dietz, Donnermeyer, Doss, Fitzgerald, Foster, Gay, Givhan, Gray, Hancock, Hardwick , Head, Hopkins, Hughes, Imes, Isler, Jones, Kenton, LeMaster, Lindsay, Little, Mann, Mason, May, McBee, McBride, McGill, Morgan, Morris, Muncy, Overstreet, Richards, B. Richardson, P. Richardson, Sale, Schmidt, Stephens, Stewart, Tobin, J. Turner, R. Turner, Vincent, Wells, Wible, Wright, Yates.

The motion that consideration of **HB 57,** by way of Committee Substitute as amended, be deferred and that it retain its position in Orders of the Day was rejected.

On the roll call the vote was yeas 90-B. Adams, A. S. Adams, J. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blandford, Blume, Blythe, Boatwright, Brinkley, Brown, Bruce, Burnette, Carpenter, Clarke, Cooper, Craddock, Crupper, Cyrus, Dawahare, DeMarcus, Denham, Deskins, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Floyd, Foster, Freeman, Gay, Givhan, Gray, Hancock, Hardwick, Head, Hopkins, Hughes, Imes, Isler, Jones, Kenton, King, Kleier, LeMaster, Lindsay, Little, Mann, Mason, May, Maynard, McBee, McBride, McGill, Morgan, Morris, Muncy, Nett, O'Brien, Overstreet, Pearl, Priddy, Richards, B. Richardson, P. Richardson, Robinson, Romines, Sale, Schmidt, Siemens, Siler, Stephens, Stewart, Tobin, Thomas, J. Turner, R. Turner, Vincent, Wells, White, Wible, Wooden, Wright, Yates. Nays 3-Ackerson, W. Allen, Guenthner.

HB 57, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **HB 57,** by way of Committee Substitute as amended, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 151, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative B. Richardson moved the adoption of the following Floor Amendment No. 4 to **HB 151:**

Amend printed copy of House Bill 151 on page 1, line 14, by deleting "*last Tuesday in August*"

and on page 1, line 14, insert in lieu thereof "*first Tuesday in August*"

Agreed.

Representative DeMarcus moved that **HB 151,** as amended, be passed.

On the roll call the vote was yeas 47-Ackerson, A. S. Adams, W. Allen, Bendl, Bennett, Bevins, Blair, Blandford, Blythe, Boatwright, Brinkley, Clarke, Cooper, DeMarcus, Donnermeyer, Dunn, Floyd, Gay, Givhan, Guenthner, Hancock, Hardwick, Holbrook, Hopkins, Kenton, King, Lindsay, Mann, Mason, Maynard, McGill, Morgan, Muncy, Overstreet, Rattliff, B. Richardson, Robinson, Romines, Schmidt, Siler, Thomas, J. Turner, R. Turner, Vincent, Wells, Wible, Wooden. Nays 42-B. Adams, J. Allen, Arnold, Benson, Beshear, Blume, Bruce, Burnette, Carpenter, Craddock, Crupper, Cyrus, Denham, Deskins, Dietz, Doss, Foster, Gray, Head, Hughes, Hurst, Imes, Isler, Kleier, LeMaster, Little, May, McBee, McBride, Morris, O'Brien, Pearl, Priddy, Richards, P. Richardson, Sale, Siemens, Stephens, Tobin, White, Wright, Yates.

HB 151, as amended, was passed and the title agreed to.

Representative DeMarcus moved that the vote by which **HB 151,** as amended, was passed by reconsidered and said motion be postponed indefinitely. Agreed.

HB 368, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative LeMaster moved the adoption of the Committee Amendment to **HB 368.** Agreed.

Representative LeMaster moved that **HB 368,** as amended, be passed.

On the roll call the vote was yeas 57-Ackerson, A. S. Adams, Arnold, Bendl, Bennett, Benson, Beshear, Blair, Blandford, Boatwright, Brinkley, Carpenter, Clarke, Cyrus, Dawahare, Denham, Deskins, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Freeman, Gay, Guenthner, Hancock, Head, Holbrook, Hopkins, Hughes, Hurst, Isler, Jones, Kenton, King, Kleier, LeMaster, Mann, Mason, McBee, McBride, McGill, Morgan, O'Brien, Pearl, Priddy, P. Richardson, Romines, Schmidt, Siemens, Stephens, Thomas, J. Turner, Wells, Wible, Wooden, Yates. Nays 24-B. Adams, W. Allen, Brown, Bruce, Burnette, Craddock, Crupper, DeMarcus, Foster, Gray, Lindsay, Little, May, Morris, Muncy, Richards, B. Richardson, Robinson, Sale, Siler, Tobin, R. Turner, Vincent, Wright.

HB 368, as amended, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 368,** as amended, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 334 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative B. Richardson moved the adoption of the following Floor Amendment No. 1 to **HB 334:**

Amend printed copy of House Bill 334 page 6, line 16, after the word "*undivided*", by inserting the word "*working*"; and on

Page 6, line 16, after the word "*oil*", by inserting the word "*or*"; and on

Page 6, line 16, after the word "*gas*", by inserting "["; and on

Page 6, line 17, after the word "*mineral*", by inserting "]".

Agreed.

Representative B. Richardson moved that **HB 334,** as amended, be passed.

On the roll call the vote was yeas 90-Ackerson, B. Adams, A. S. Adams, J. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blandford, Blume, Blythe, Boatwright, Brinkley, Brown, Bruce, Carpenter, Clarke, Cooper, Craddock, Crupper, Cyrus, Dawahare, DeMarcus, Denham, Deskins, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Floyd, Foster, Freeman, Gay, Givhan, Gray, Guenthner, Hancock, Hardwick, Holbrook, Hopkins, Hughes, Imes, Isler, Jones, Kenton, King, Kleier, LeMaster, Little, Mann, Mason, May, Maynard, McBee, McBride, McGill, Morgan, Morris, Muncy, Nett, O'Brien, Overstreet, Pearl, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Robinson, Romines, Sale, Schmidt, Siemens, Siler, Stephens, Stewart, Tobin, Thomas, J. Turner, R. Turner, Vincent, Wells, Wible, Wooden, Wright, Yates, Nays 3-W. Allen, Burnette, Lindsay.

HB 334, as amended, was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **HB 334,** as amended, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 5, with Committee Substitute attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Clarke moved the adoption of the Committee Substitute for **HB 5.** Agreed.

Representative Clarke moved that **HB 5,** by way of Committee Substitute, be passed.

On the roll call the vote was yeas 79-Ackerson, B. Adams, A. S. Adams, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blandford, Blume, Blythe, Boatwright, Brinkley, Brown, Bruce, Carpenter, Clarke, Craddock, Crupper, DeMarcus, Denham, Dunn, Floyd, Foster, Freeman, Givhan, Gray, Guenthner, Hancock, Head, Holbrook, Hughes, Hurst, Isler, Jones, Kenton, King, Kleier, LeMaster, Lindsay, Mann, Mason, May, Maynard, McBee, McBride, McGill, Morgan, Morris, Nett, O'Brien, Overstreet, Pearl, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Robinson, Romines, Sale, Schmidt, Siemens, Siler, Stephens, Stewart, Tobin, Thomas, J. Turner, R. Turner, Vincent, Wells, Wible, Wooden, Wright, Yates. Nays 12-J. Allen Burnette, Cooper, Cyrus, Deskins, Doss, Fitzgerald, Gay, Imes, Little, Muncy, White.

HB 5, by way of Committee Substitute, was passed and the title agreed to.

Representative Clarke moved that the vote by which **HB 5,** by way of Committee Substitute, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 475 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative DeMarcus moved that **HB 475** be passed.

On the roll call the vote was yeas 87-Ackerson, B. Adams, A. S. Adams, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blandford, Blume, Blythe, Boatwright, Brinkley, Brown, Bruce, Burnette, Carpenter, Clarke, Cooper, Craddock, Cyrus, Dawahare, DeMarcus, Deskins, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Floyd, Freeman, Gay, Givhan, Gray, Guenthner, Hancock, Hardwick, Head, Holbrook, Hughes, Imes, Isler, Kenton, King, Kleier, LeMaster, Lindsay, Little, Mann, Mason, May, Maynard, McBee, McBride, McGill, Morgan, Muncy, Nett, O'Brien, Overstreet, Pearl, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Robinson, Romines, Sale, Schmidt, Siemens, Siler, Stephens, Stewart, Tobin, Thomas, J. Turner, R. Turner, Vincent, White, Wible, Wooden, Wright, Yates. Nays 1-J. Allen.

HB 475 was passed and the title agreed to.

Representative DeMarcus moved that the vote by which **HB 475** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HCR 42 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Tobin moved that **HCR 42** be passed.

On the roll call the vote was yeas 84-B. Adams, A. S. Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blandford, Blume, Blythe, Boatwright, Brinkley, Brown, Bruce, Carpenter, Clarke, Cooper, Craddock, Cyrus, Dawahare, DeMarcus, Denham, Deskins, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Floyd, Foster, Givhan, Gray, Guenthner, Hancock, Hardwick, Head, Holbrook, Hopkins, Hughes, Imes, Isler, Kenton, King, Kleier, LeMaster, Lindsay, Little, Mann, Mason, May, Maynard, McBride, McGill, Morgan, Muncy, O'Brien, Overstreet, Pearl, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Robinson, Romines, Schmidt, Siemens, Siler, Stephens, Stewart, Tobin, Thomas, J. Turner, R. Turner, Vincent, White, Wible, Wooden, Wright, Yates. Nays 0.

HCR 42 was passed and the title agreed to.

Representative Tobin moved that the vote by which **HCR 42** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative B. Richardson moved that the rules be suspended for Posting of Bills and Resolutions for Consideration. Agreed.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Cities: **HB 593.**

Counties and Special Districts: **HB 253, HB 551.**

Education: **HB 333, HB 440, HB 382, HB 516.**

Health and Welfare: **HB 574.**

Appropriations and Revenue: **SB 91.**

Representative B. Richardson moved that the rules be suspended for the purpose of making adjournment plans. Agreed.

Representative B. Richardson moved that when the House adjourns, it do so by voice vote, and until 2:00 p.m., Tuesday, February 24, 1976. Agreed.

Representative Bennett moved that the rules be suspended for the purpose of taking Bills from the Clerk's desk.

On the roll call the vote was yeas 53-A. S. Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Bevins, Blair, Blandford, Blume, Blythe, Brown, Clarke, Craddock, Cyrus, Deskins, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Floyd, Freeman, Givhan, Gray, Hardwick, Head, Hughes, Imes, Isler, Kenton, Kleier, LeMaster, Lindsay, Little, Mann, Maynard, McBride, McGill, Muncy, Pearl, Priddy, B. Richardson, Romines, Siemens, Siler, Tobin, Thomas, R. Turner, White, Wible, Wooden, Yates. Nays 2-Hopkins, Jones.

The motion that the rules be suspended for the purpose of taking Bills from the Clerk's desk was adopted.

Representative Bennett moved that **HB 102** and **HB 303** be taken from the Clerk's desk and placed in Orders of the Day.

On the roll call the vote was yeas 47-J. Allen, Arnold, Bendl, Bennett, Benson, Bevins, Blandford, Brown, Clarke, Craddock, Cyrus, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Floyd, Freeman, Givhan, Gray, Hardwick, Hughes, Imes, Isler, Kenton, Kleier, LeMaster, Lindsay, Mann, McBride, McGill, Muncy, Pearl, Priddy, Richards, B. Richardson, Romines, Siemens, Siler, Tobin, Thomas, J. Turner, R. Turner, White, Wible, Wooden, Yates. Nays 4-W. Allen, Deskins, Holbrook, Hopkins.

The motion that **HB 102** and **HB 303** be taken from the Clerk's desk and placed in Orders of the Day was adopted.

The Speaker vacated the Chair.

Representative Floyd presiding.

Announcements

Representative Beshear filed Floor Amendment No. 1 to **HB 396.**

Representative Clarke moved that the rules be suspended for the purpose of making a request in regard to posting of Bills. Agreed.

Representative Clarke moved that the Committee on Appropriations and Revenue be granted the privilege of waiving the time element in posting **HB 609** and **SB 91.** Agreed.

Representative Clarke announced the final Budget Hearing in Senate Chamber, 9:00 a.m., February 24, 1976.

Representative B. Richardson moved that the House adjourn. Agreed.

TUESDAY, FEBRUARY 24, 1976

THIRTY-EIGHTH LEGISLATIVE DAY

The House was called to order by Speaker Kenton.

Prayer by Father Carl Schaeffer, Church of the Good Shepherd, Frankfort.

The roll was called. All present except Representatives DeFalaise and Clapp.

Representative Isler moved that absent members be granted leave of absence in accordance with the prevailing rules of the House. Agreed.

Representative Hughes moved that the reading of the Journal of February 23, 1976, be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HB 635, by Representatives Mason and Wells: AN ACT relating to estate tax.

HB 636, by Representatives Hurst and Fitzgerald: AN ACT relating to master commissioners.

HB 637, by Representatives Mason and Holbrook: AN ACT relating to taxation.

HB 638, by Representatives Mason and Holbrook: AN ACT relating to county historical societies.

HB 639, by Representative B. Richardson: AN ACT relating to administrative reorganization.

HB 640, by Representative B. Richardson: AN ACT relating to education.

HB 641, by Representative B. Richardson: AN ACT relating to the hospitalization of the mentally retarded.

HB 642, by Representative B. Richardson: AN ACT relating to incompetency proceedings.

HB 643, by Representative B. Richardson: AN ACT relating to the auditor of public accounts.

HB 644, by Representative B. Richardson: AN ACT relating to trade practices.

HB 645, by Representative B. Richardson: AN ACT relating to the State Personnel Classified Service.

HB 646, by Representative B. Richardson: AN ACT relating to prohibition of restraints of trade and monopolistic practices.

HB 647, by Representative B. Richardson: AN ACT relating to the hospitalization of the mentally ill.

HB 648, by Representatives Dunn, Kleier, Bendl, Bennett, Maynard, Priddy, Romines, and Yates: AN ACT relating to election precincts.

HB 649, by Representative Blume: AN ACT relating to sick leave for teachers.

HB 650, by Representative Blume: AN ACT relating to wages and hours.

HB 651, by Representatives B. Richardson and Donnermeyer: AN ACT relating to public projects.

HB 652, by Representative B. Richardson: AN ACT relating to motor vehicle sales.

HB 653, by Representative Mann: AN ACT relating to experimental year-round school program operation.

HB 654, by Representatives Little, J. Allen, Brinkley, Doss, Gray, and McBride: AN ACT relating to the mining of coal and clay.

HB 655, by Representatives Burnette and Gay: AN ACT relating to insurance.

HB 656, by Representatives Burnette, Head, Boatwright, and Wright: AN ACT proposing an amendment to Section 170 of the Constitution of Kentucky relating to property exempt from taxation.

HB 657, by Representative Freeman: AN ACT relating to wages and hours.

HB 658, by Representatives Gay, Cooper, and Cyrus: AN ACT relating to Teachers' Retirement.

HB 659, by Representative Gay: AN ACT relating to state police.

HB 660, by Representative Yates: AN ACT relating to fire districts.

HB 661, by Representatives Arnold and Stephens: AN ACT relating to defrauding secured creditors.

HB 662, by Representatives Guenthner, Benson, Ackerson, Bendl, Bennett, Blume, Blythe, Carpenter, Dunn, Holbrook, Holloway, Hopkins, Hughes, Maynard, McGill, Nett, O'Brien, Overstreet, Priddy, Romines, Wooden, and Yates: AN ACT relating to motor vehicle certificates of title.

HB 663, By Representatives Donnermeyer and Mann: AN ACT relating to urban services.

HB 664, by Representative Tobin: AN ACT relating to state legislative districts.

HB 665, by Representatives King, McBee, Dietz, Donnermeyer, and Mann: AN ACT relating to police and firefighters pensions.

HR 62, by Representatives Fitzgerald, Blair, Blandford, LeMaster, Overstreet, and R. A. Turner: A RESOLUTION notifying the Congress of the United States of the disapproval of the House of Representatives of the Kentucky General Assembly to the proposed "Child and Family Service Act of 1975".

HR 63, by Representative DeMarcus: A RESOLUTION adjourning in memory of Dr. William Harrison Jones.

HJR 64, by Representative B. Richardson: A JOINT RESOLUTION directing the Department of Education and the Legislative Research Commission to conduct a study of fringe benefits currently available to public school teachers and make recommendations to the Governor and the Interim Committee on Education for a coordinated program of fringe benefits for public school employes.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Natural Resources: **HB 602, HB 626.**

Appropriations and Revenue: **HB 605, HB 606, HB 610, HB 613, HB 619, HB 620, HB 628, HB 629, HB 633.**

Banking and Insurance: **HB 600.**

Business Organizations and Professions: **HB 634.**

Cities: **HB 615, HB 631, HR 58.**

Counties and Special Districts: **HB 621, HB 627, HB 630.**

Education: **HB 601, HB 604, HB 616, HJR 60, HJR 61, SB 50, SB 84, SCR 14.**

Health and Welfare: **HB 623.**

Judiciary-Courts: **HB 611.**

Judiciary-Statutes: **HB 603, HB 617.**

Labor and Industry: **HB 612, HB 614.**

Public Utilities and Transportation: **HB 608, HB 618.**

State Government: **HB 607, HB 622, HB 624, HB 632, SB 147, SB 190, HR 59.**

Senate Message

Announcing passage of **SB 189, SR 23, HB 72, HB 211** with Senate Amendment, and **HB 219.**

Report of Committees

The Committee on Banking and Insurance reported **HB 521** and **SB 60** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 521, AN ACT relating to Trust Funds held by Savings and Loan Associations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 289 IS CREATED TO READ AS FOLLOWS:

An association may act as trustee, and may receive a reasonable compensation for so acting, of any trust created or organized in the United States and forming part of a stock bonus, pension, or profit-sharing plan which qualifies or qualified for specific tax treatment under Section 401(d) of the Internal Revenue Code of 1954, and to act as trustee or custodian of an individual retirement account within the meaning of Section 408 of such code, if the funds of such trust or account are invested only in savings accounts or deposits in such association or in obligations or securities issued by such association. All funds held in such fiduciary capacity by any such association may be commingled for appropriate purposes of investment, but individual records shall be kept by the fiduciary for each participant and shall show in proper detail all transactions engaged in under the authority of this section.

SB 60, AN ACT relating to health insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 304, Subtitle 17 is created to read as follows:

(1) All individual health insurance policies providing coverage on an expense incurred basis which provide coverage for a family member of the insured shall, as to such family members' coverage, also provide that the health insurance benefits applicable for children shall be payable with respect to a newly born child of the insured from the moment of birth.

(2) The coverage for newly born children shall consist of coverage of injury or sickness including the necessary care and treatment of medically diagnosed congenital defects and birth abnormalities.

(3) If payment of a specific premium or fee is required to provide coverage for a child the policy or contract may require that notification of birth of a newly born child and payment of the required premium or fees must be furnished to the insurer within thirty-one (31) days after the date of birth in order to have the coverage continue beyond such thirty-one (31) day period.

(4) The requirements of this Act shall apply to all health insurance policies delivered in this state on and after October 1, 1976.

Section 2. A new section of KRS Chapter 304, Subtitle 18 is created to read as follows:

(1) All group or blanket health insurance policies and certificates issued thereunder providing coverage on an expense incurred basis which provide coverage for a family member of the insured or certificate holder shall, as to such family members' coverage also provide that the health insurance benefits applicable for children shall be payable with respect to a newly born child of the insured or certificate holder from the moment of birth.

(2) The coverage for newly born children shall consist of coverage of injury or sickness including the necessary care and treatment of medically diagnosed congenital defects and birth abnormalities.

(3) If payment of a specific premium or fee is required to provide coverage for a child, the policy or contract may require that notification of birth of a newly born child and payment of the required premium or fees must be furnished to the insurer within thirty-one (31) days after the date of birth in order to have the coverage continue beyond such thirty-one (31) day period.

(4) The requirements of this Act shall apply to all insurance policies, and certificates issued thereunder, delivered or issued for delivery in this state on and after October 1, 1976.

Section 3. A new section of KRS Chapter 304, Subtitle 32 is created to read as follows:

(1) All individual or group service or indemnity type contracts and all certificates thereunder issued by a nonprofit corporation which provide coverage for a family member of the member or subscriber shall, as to such family members' coverage, also provide that the health insurance benefits applicable for children shall be payable with respect to a newly born child of the member or subscriber from the moment of birth.

(2) The coverage for newly born children shall consist of coverage of injury or sickness including the necessary care and treatment of medically diagnosed congenital defects and birth abnormalities.

(3) If payment of a specific premium or fee is required to provide coverage for a child, the policy or contract may require that notification of birth of a newly born child and payment of the required premium or fees must be furnished to the nonprofit service or indemnity corporation within thirty-one (31) days after the date of birth in order to have the coverage continue beyond such thirty-one (31) day period.

(4) The requirements of this Act shall apply to all member or subscriber contracts, and all certificates thereunder, delivered or issued for delivery in this state on and after October 1, 1976.

The Committee on Cities reported **HB 61** with Committee Substitute attached thereto, **HB 299** with Committee Amendment attached thereto, **HB 387, HB 527, HB 539,** and **SB 85** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 61, AN ACT relating to taxes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 132.010 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Department" means the Department of Revenue.

(2) "Taxpayer" means any person made liable by law to file a return or pay a tax.

(3) "Real property" includes all lands within this state and improvements thereon.

(4) "Personal property" includes every species and character of property, tangible and intangible, other than real property.

(5) "Resident" means any person who has taken up a place of abode within this state with the intention of continuing to abide in this state; any person who has had his actual or habitual place of abode in this state for the larger portion of the twelve months next preceding the date as of which an assessment is due to be made shall be deemed to have intended to become a resident of this state.

(6) "Compensating tax rate" means that rate which, rounded to the next higher one-tenth of one cent per one hundred dollars of assessed value and applied to the *1976* [1972] assessment of the property subject to taxation by a taxing district, [excluding net assessment growth, as defined in KRS 132.425,] produces an amount of revenue approximately equal to that produced in *1975* [1971].

(7) "Agricultural land" means any tract of land of at least ten contiguous acres in area used for the production of livestock, livestock products, poultry, poultry products and/or the growing of tobacco and/or other crops including timber, or where devoted to and meeting the requirements and qualifications for payments pursuant to agriculture programs under an agreement with the state or federal government, where such activities produced an average gross income including payments under a state or federal program of at least $1,000 per year during the two years immediately preceding the tax year or there is evidence of anticipated yearly gross income of this amount. Land devoted exclusively to the growing of merchantable

timber is excluded from the gross income provisions.

(8) "Horticultural land" means any tract of land of at least five contiguous acres in area commercially used for the cultivation of a garden, orchard, or the raising of fruits, vegetables, flowers or ornamental plants, where such activities produced an average gross income of at least $1,000 per year during the two years immediately preceding the tax year or there is evidence of anticipated yearly gross income of this amount.

(9) "Agricultural or horticultural value" means representative sales prices of comparable land purchased for agricultural or horticultural use with consideration being given to the purpose of purchase, such as, farm expansion, improved accessibility and other like factors unduly influencing the sales price.

(10) "Deferred tax" means the difference in the tax based on agricultural or horticultural value and the tax based on fair cash value.

(11) "Homestead" means a single family dwelling with all land and improvements adjoining and contiguous thereto including, but not limited to lawns, drives, flower or vegetable gardens, outbuildings and all other land connected to the single family dwelling.

(12) "Single unit residence" means a residence which is private—herein an individual or family lives. This does not include an apartment or duplex but does include a condominium unit owned and occupied on an individual basis.

(13) "Special benefits" are those which are provided by public works not financed through the general tax levy but through special assessments against the benefited property.

Section 2. KRS 132.027 is amended to read as follows:

(1) Notwithstanding any statutory provisions to the contrary, no city shall levy a rate which exceeds the compensating tax rate defined in KRS 132.010, except as provided in subsections (2), *(3), and (4)* of this section.

(2) Notwithstanding the limitations contained in subsection (1) of this section, any city which levied a poll tax in 1973 may include the revenues received from the poll tax in that year in computing the compensating tax rate for 1974 and subsequent years.

Notwithstanding the limitatons contained in subsection (1) of this section, any city which deems that it will require a rate greater than that permitted in subsection (1) may levy a rate which does not exceed the rate prescribed in subsection (1) by more than ten percent for each of the two taxable years subsequent to December 16, 1975, after compliance with the provisions of subsection (4) of this section.

(4) The question of whether the tax rate shall be increased in accordance with the provisions of subsection (3) of this section shall be placed on the ballot at the next regular election if (a) a petition has been signed by a number of registered voters of the city equal to twenty-five percent (25%) of the total number of votes cast in the last regular election within the city, or (b) a resolution has been enacted by the governing body of the municipality authorizing the question to be placed on the ballot. The question to be submitted to the voters shall be substantially: "Are you in favor of the city raising its tax rate from .... to ....: for the period beginning ....: and ending ....?" The referendum shall be held, and the votes cast, counted and certified, as in general elections. If the majority of the votes cast are in the affirmative, the tax rate shall be increased. If a majority of the votes cast are in the negative, the tax rate shall not be increased.

The Committee Substitute for **HB 61** is as follows:

HB 61, AN ACT relating to taxes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 132 IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding any statutory provision to the contrary, no taxing district shall levy a rate which exceeds the compensating tax rate defined in KRS 132.010(6), except as provided in subsection (2) of this section.

(2) No taxing district shall levy a rate which exceeds the compensating rate defined in KRS 132.010(6) by more than ten percent (10%) for any tax year subsequent to December 31, 1975. This section is subject to the ad valorem tax limitations of the Kentucky Constitution.

(3) The question of whether the tax rate shall be increased in accordance with the provisions of this section shall be placed on the ballot at the next regular election if a petition asking for a referendum on the question, signed by a number of voters of the taxing district equal to twenty-five percent (25%) of the total number of votes cast in the last general election within the taxing district, is filed with the county clerk within thirty (30) days after publication of notice of the tax increase in accordance with KRS Chapter 424. No taxes shall be collected at the increased tax rate until the final date for filing the petition or the date for any such

election has passed. The county clerk shall notify the clerk of the taxing district of the filing of the petition and the result of the election by certified mail, return receipt requested.

(4) The difference in the total valuation of property subject to taxation by any taxing district in the preceding year, less the total valuation exempted from taxation by the homestead exemption provision of the Constitution in each year over that exempted in the preceding year, and the total valuation of property subject to taxation by any taxing district for the current year shall be the net assessment growth for purposes of KRS 132.010(6) and 132.425. Net assessment growth for any taxing district includes an appreciated sale price as well as physical improvements.

HB 299, AN ACT relating to pension funds in cities of the second class.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 90.400 is amended to read as follows:

(1) Any city of the second class adopting a civil service plan under KRS 90.310 shall provide by ordinance for the creation and maintenance of a pension fund for employes under civil service by the levy of a tax of not exceeding five cents or such rate as necessary to permit the city to match the employes' current contributions to the fund, on each one hundred dollars value of taxable property in the city, the proceeds of that tax to be paid to the pension fund in cash, and may assess monthly such amount or percent of the salary of the employes as may be equitably determined on a fair actuarial basis, the assessment to be deducted from the employes' salaries and paid in cash into the pension fund.

(2) The city may make current contributions to the fund on an actuarially funded basis, toward the annuities and benefits herein provided. These contributions shall be equal to the sum of the following:

(a) An annual amount resulting from the application of a rate percent of salaries of active members, representing the present value of the actuarial reserve requirements for membership service, for service retirement annuity, disability retirement annuity, and annuities to surviving spouses and children, and the one-year term premium for the city's liability for death benefits, after applying the contribution by the active members. Such rate percent shall be fixed by the board of city commissioners every five years after an actuarial survey of the fund, and shall be in effect for a period of at least five years.

(b) An amount resulting from the application of a rate percent of the salaries of active members which will provide each year regular interest on the remaining liability for prior service.

(3) The city may create a board for the pension fund and designate trustees of that board, and may fix the powers of the trustees, determine the eligibility of employes or their dependents to a pension or other benefit, and may provide a monthly allowance for employes eligible for a pension.

(4) Temporary employes appointed without examination shall not be compelled to contribute to any pension fund and shall not be eligible to benefits.

(5) In no year shall the contribution by the city to the pension fund, in the manner provided in this section, be less than the total amount assessed upon and deducted from the salary of the employes, [.]*unless one-third of the employes covered by the fund petition the city to permit them to contribute a stated percentage of their gross pay greater than that contributed by the city. Such a petition shall not be effective until approved by a two-thirds majority vote of all the members of the pension fund.*

(6) The trustees of the pension fund shall, at least once every three months, report in writing to the mayor the receipts, expenditures and financial status of the pension fund, stating the places of deposit of funds, or the character of investments made, and the mayor shall cause copies of the report to be posted in at least three places where city employes frequent and report.

(7) When any city of the second class adopts an ordinance under this section for the creation of a pension fund and accepts from its employes a portion of their wages and levies a tax therefor, an inviolable contract shall be created between the city as employer and its employes, and the city and its employes shall continue to operate under KRS 90.310 to 90.410 and the adopting ordinance. A repeal of that ordinance by the city shall in no wise affect such employes unless by the mutual consent of the city and an employe or employes.

The Committee Amendment to **HB 299** is as follows:

Amend printed copy of **HB 299,** page 3, line 9, after "*of the pension fund.*" add: "*Nothing contained herein shall in anyway permit or enable any city to diminish its contribution to the pension fund.*"

HB 387, AN ACT changing the classification of the city of Douglass Hills, in Jefferson County.

WHEREAS, satisfactory information has been presented to the General Assembly that the population of the City of Douglass Hills, in Jefferson County, is such as to justify its being classified as a city of the fourth class,

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

The City of Douglass Hills, in Jefferson County, is transferred from the sixth to the fourth class of cities.

HB 527, AN ACT relating to the electing of legislative bodies in cities of the third, fourth, fifth and sixth classes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 85.060 is amended to read as follows:

(1) Members of the common council shall take office on first Monday in January next after their election, and shall hold office for two (2) years and until their successors are elected and have qualified. *The legislative body of a city of the third class may, by ordinance, choose to have its future members elected by staggered elections held annually. If the ordinance becomes law, at the next November election six members as determined in advance by lot, shall be elected for a two year term and the other six shall be elected for a two year term in November one year later. Thereafter there shall be staggered elections of six members annually. If any changes are made in the time of elections, the city clerk shall, within ten days, notify the county clerk for purposes of his properly preparing the ballot for future elections.*

(2) A city choosing staggered elections under this Act, may, by later adopting an ordinance, return to having the legislative body elected for two year terms.

(3) [(2)] Each councilman, at the time of his election, shall be a citizen of Kentucky, shall have attained the age of twenty-four (24) years, shall have actually resided within the city limits for two (2) years next preceding his election, and the last year thereof in the ward for which he is chosen, and shall be a freeholder in the city.

(4) [(3)] No person shall be eligible to the office of councilman who is, at the time of his election, interested in any contract with the city, or holds any franchise under, or any contract with, the city, or is a collector or keeper of city funds and has not, previous to his election, settled with the city and obtained a quietus. No councilman shall be eligible to any other city office during the period for which he was elected.

Section 2. KRS 86.050 is amended to read as follows:

(1) Members of the city council shall be elected for terms of two (2) years.

(2) Each member of the council shall be a qualified voter in the city, and shall have been for at least six (6) months prior to his election a resident of the ward for which he stands, if the city is divided into wards. No member of the council shall be interested in any contract with the city, or be in arrears to the city for money collected or withheld without a settlement or quietus therefor. The absence of any of the qualifications, or the existence of any of the disqualifications provided for in this subsection shall render a person ineligible to be a member of the council, and the council shall so declare, and shall fill the vacancy.

(3) The legislative body of a city of the fourth class may, by ordinance, choose to have its future members elected by staggered elections held annually. If the ordinance becomes law, at the next November election one-half of the members, as determined in advance by lot, shall be elected for a two year term and the other half of the members shall be elected for a two year term in the November election held one year later. If any changes are made in the time of elections, the city clerk shall, within ten days, notify the county clerk for purposes of his properly preparing the ballot for future elections of the third, fourth, fifth or sixth class.

(4) A city choosing staggered elections under this Act, may, by later adopting an ordinance, return to having the legislative body elected for two year terms.

Section 3. KRS 87.170 is amended to read as follows:

(1) The members of the city council, mayor and police judge shall be elected by the qualified voters of the city. The members of the city council shall be elected at the regular November election [every two (2) years, beginning with 1893], and shall hold office for two (2) years. *The legislative body of a city of the fifth class may, by ordinance, choose to have its future members elected by staggered elections held annually. If the ordinance becomes law, at the next November election three members, as determined in advance by lot, shall be elected for a two year term and the other three members shall be elected for a two year term in November*

one year later. Thereafter there shall be staggered elections of three members annually. If any changes are made in the time of elections, the city clerk shall, within ten days, notify the county clerk for purposes of his properly preparing the ballot for future elections. The mayor and police judge shall be elected at the regular November election every four (4) years, beginning with 1893, and shall hold office for four (4) years. The members of the city council, mayor and police judge shall take office on the first Monday in January following their election.

(2) A city choosing staggered elections under this Act, may, by later adopting an ordinance, return to having the legislative body elected for two year terms.

(3) [(2)] The assessor, treasurer, clerk and city attorney shall be appointed by the city council for a term of two (2) years, but may be removed at the pleasure of the council. The city council may appoint, and fix the duties and compensation of, a poundmaster, superintendent of streets, city engineer, chief of fire department, city weigher, city physician and police court clerk, for terms of two (2) years, subject to removal at the pleasure of the council.

Section 4. KRS 88.180 is amended to read as follows:

(1) The members of the board of trustees and police judge shall be elected by the qualified voters of the city. The members of the board of trustees shall be elected at the regular November election [every two (2) years, beginning with 1893], and shall hold office for two (2) years. *The board of trustees of a city of the sixth class may, by ordinance, choose to have its future members elected by staggered elections held annually. If this ordinance becomes law, at the next November election, two members, as determined in advance by lot, shall be elected for a two year term and the other three members shall be elected for two year terms in November 1977. Thereafter there shall be staggered elections annually. If any changes are made in the time of elections, the city clerk shall, within ten days, notify the county clerk for purposes of his properly preparing the ballot for future elections.* The police judge shall be elected at the regular November election every four (4) years, beginning with 1893, and shall hold office for four (4) years. The members of the board of trustees and the police judge shall take office on the first Monday in January following their election.

(2) A city choosing staggered elections under this Act, may, by later adopting an ordinance, return to having its legislative body elected for two year terms.

(3) [(2)] The treasurer and clerk shall be appointed by the board of trustees for a term of two (2) years, but may be removed at the pleasure of the board.

(4) [(3)] The board of trustees may appoint an assessor, a poundmaster, a superintendent of streets, a town engineer, a chief of fire department, a town weigher and a town physician, each of whom shall hold office for two (2) years, but may be removed at the pleasure of the board of trustees.

HB 539, AN ACT relating to taxes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 82 IS CREATED TO READ AS FOLLOWS:

(1) Any 4th class city which provides police, fire or garbage collection services for the residents of the city may levy a supplemental tax which shall be in addition to ad valorem property taxes.

(2) Such supplemental tax shall be in an amount not to exceed the reasonable cost of police, fire or garbage collection services actually provided by the city. The rate of such tax shall be established by an ordinance which shall have readings at no less than two different meetings of the city legislative body before passage.

(3) The rate of such supplemental tax may be apportioned in a reasonable manner, other than an ad valorem approach, so that the recipient of police, fire or garbage collection services pays an amount based on the cost of services actually received.

(4) This Act shall become effective on January 1, 1977.

SB 85, AN ACT changing the classification of the City of Prospect, in Jefferson County.

WHEREAS, satisfactory information has been presented to the General Assembly that the population of the City of Prospect, in Jefferson County, is such as to justify its being classified as a city of the fifth class,

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

The City of Prospect, in Jefferson County, is transferred from the sixth to the fifth class of cities.

The Committee on Education reported **HB 352** with the expression of opinion that the same should not pass.

The Committee on Education reported **HB 68** with Committee Amendment attached thereto, **HB 248** with Committee Amendment attached thereto, **HB 347**, and **HR 24** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 68, AN ACT relating to regional day school education for the deaf and hearing impaired.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 157 is created to read as follows:

(1) The State Department of Education, under appropriate rules and regulations of the State Board of Education, shall provide for a statewide program of instruction designed to ensure proper educational services for the deaf and hearing impaired.

(2) It shall be the responsibility of the department to develop and administer the statewide program of deaf education through a series of regional day schools for instruction at the preparatory, pre-school level and at the primary elementary level, in addition to such instruction provided by local district boards of education and by the Kentucky School for the Deaf.

Section 2. A new section of KRS Chapter 157 is created to read as follows:

(1) Educational services for the deaf and hearing impaired shall include, but not be limited to, diagnosis, evaluation, counseling, and teaching.

(2) Such services shall be provided for all children between the ages of three and twenty-one whose hearing is determined by professionally acceptable evaluation to be nonfunctional for regular educational purposes.

Section 3. A new section of KRS Chapter 157 is created to read as follows:

The State Board of Education, upon recommendation of the Superintendent of Public Instruction, shall apportion the state into regional deaf education service areas in a manner consistent with provisions of educational services through regional day schools. Geographic areas of each regional day school program for the deaf and hearing impaired may be revised by the board when necessary to ensure proper coordination and administration of the program. Activities of a regional day school program may be conducted at more than one site within a region.

Section 4. A new section of KRS Chapter 157 is created to read as follows:

Costs of operation of the regional day school programs for the deaf and hearing impaired shall be provided by the state through the public school Foundation Program. However, funds allocated to county and independent school districts for the purpose of providing educational services for the deaf and hearing impaired shall remain so allocated, except in those regions in which the county or independent school district program has been made a part of the appropriate regional day school program.

Section 5. A new section of KRS Chapter 157 is created to read as follows:

To assure effective implementation of this Act, the State Department of Education shall upon passage of this Act institute planning and research designed to accomplish the provisions of Sections (1) through (4), including employment of appropriate personnel, considered essential to meet the operational effective date of this Act.

Section 6. To carry out purposes of this Act, there is appropriated to the State Department of Education out of the General Fund in the State Treasury the sum of $250,000 for the 1976-77 fiscal year and the sum of $250,000 for the 1977-78 fiscal year.

Section 7. KRS 167.120 is repealed.

Section 8. The effective date of this Act shall be July 1, 1978.

The Committee Amendment to **HB 68** is as follows:

Amend printed copy of **HB 68,** on pages 1, 2, and 3 by deleting all provisions immediately following the enacting clause and inserting in lieu thereof the following:

"SECTION 1. A NEW SECTION OF KRS CHAPTER 157 IS CREATED TO READ AS FOLLOWS:

The state Department of Education shall institute planning and research designed to study the desirability of the development of a statewide program of deaf education for instruction at the preparatory, pre-school level and at the primary elementary level, in addition to such instruction provided by local district boards of education and by the Kentucky School for the Deaf, and submit a positive legislative proposal to the Interim Joint Committee on Education to fill the needs identified by the study.

SECTION 2. To carry out the provisions of this Act, there is appropriated to the state department of education out of the General Fund in the State Treasury the sum of $100,000 for the 1976-77 fiscal year."

HB 248, AN ACT relating to personal leave for school employes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 161 is created to read as follows:

(1) For the purpose of this section, "school employes" shall mean any person for whom certification is required as a basis of employment in the public schools.

(2) Each district board of education shall provide a minimum of three personal leave days per school year to school employes, without loss of salary to the employe and without affecting any other type of leave granted by law, regulation or school board policy.

(3) Personal leave granted under this section shall not be treated as having effect on the provisions of KRS 161.152 to KRS 161.155 and shall be supported by personal affidavit of the school employe stating that the leave taken is personal in nature; no other reason for or verification of the leave shall be required.

(4) Payments to school employes made by a district board of education under the provisions of this section are presumed to be for services rendered and for the benefit of the common schools and such payments do not affect the eligibility of any school district to share in the distribution of funds from the public school foundation program fund as established in KRS Chapter 157 or 157A.

The Committee Amendment to **HB 248** is as follows:

Amend printed copy of **HB 248,** page 1, line 6, by deleting the word "shall" and by adding in lieu thereof the word "may"

HB 347, AN ACT relating to reassignment of teachers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 161.760 is amended to read as follows:

(1) Each board of education shall cause notice to be given annually not later than July 1 to each teacher who holds a contract valid for the succeeding school year, stating the best estimate *of* [as to] the salary to be paid such teacher during such year. [Such salary shall not be lower than the salary paid during the preceding school year unless such reduction be a part of a uniform plan affecting the entire district, or unless there is a reduction or elimination of extra service, administrative and/or supervisory duties and responsibilities of the teacher or other certified personnel. Upon requests by the teacher, any reduction or elimination of extra service, administrative and/or supervisory duties and responsibilities shall be accompanied by a written statement of the specific reason or reasons for such reduction or elimination.] But nothing *in this section* [herein] shall prevent increases of salary after the board's annual notice has been given. [All teachers who refuse assignment shall notify the superintendent in writing not later than July 15.] Reassignment of *teachers* [certificated personnel] after July 15 shall be made only to fill vacancies created by illness, death or resignations, [;] to *place teachers in different positions* [reduce or increase personnel] because of a shift in

school population *or* [;] to make personnel adjustments after consolidation or merger [; to assign personnel according to their major or minor fields of training].

(2) Salary of a teacher shall be determined by reference to the single salary schedule, as defined in KRS 157.320(13) or KRS 157A.030(17), adopted by the board of education; said schedule shall reflect the amounts to be paid for extra service, additional duties and administrative or supervisory responsibilities. Salary of a teacher shall be the same as that paid during the preceding school year plus increases required by said schedule. There shall be no reduction in the salary of a teacher unless such reduction is a part of a uniform plan affecting the entire district.

(3) The board, upon recommendation of the superintendent, may approve reduction in the salary of an administrator, as defined in KRS 161.720(8), who has not completed three years of administrative service in the school district, if a corresponding reduction in responsibility is likewise recommended and approved; provided that written notification setting forth the complete and specific grounds for such reduction shall be furnished to the teacher not later than March 31. Reduction in salary or responsibility of a teacher with more than three years of administrative service must be in accordance with the provisions of KRS 161.765(2).

[(2) Upon recommendation of the superintendent and approval of the board of education reduction of responsibility for a teacher may be accompanied by a corresponding reduction in salary; Provided That written notification setting forth the specific reason or reasons for such reduction shall be furnished the teacher not later than May 15.]

[(3) Employment of a teacher, under either a limited or a continuing contract, is employment in the school district only and not in a particular position or school.]

(4) Whenever involuntary teacher reassignments, including those made under subsection (1) of this section, result in a teacher being transferred to a different school or require additional travel to an assigned place of duty, such involuntary reassignments shall be made from among those teachers who are certified, pursuant to KRS 161.010 through 161.126 and state board of education regulations adopted thereunder, to hold the new or different position and, within such grouping, the teachers with the least amount of certified service in the school system shall be transferred. However, if involuntary reassignment requires a decrease in salary, the employing board shall grant preference to such teacher and the teacher with the next lowest amount of service should be reassigned. For purposes of this subsection, service in the school system is the time of continuous service in the school system and, if necessary to determine preference where teachers have equal service, a drawing at hazard shall be conducted by the superintendent of schools.

HJR 24, A JOINT RESOLUTION authorizing and directing the State Department of Education to establish a public school kindergarten program.

WHEREAS, the absence of a statewide public school kindergarten program fails to prepare a significant number of children for the first grade; and

WHEREAS, the high retention rate of first grades and subsequent re-education places a burden upon the commonwealth's financial resources; and

WHEREAS, this financial burden can be better spent in funding public school kindergartens; and

WHEREAS, statistics show that children attending public school kindergarten are less likely to repeat the first grade and are generally more successful throughout their school careers; and

WHEREAS, the education of our children is a source of national wealth;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. That the State Department of Education shall mandate and establish a public school kindergarten program statewide by 1980.

The Committee on Education reported **HB 171,** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Ordered referred to the Committee on Rules.

The Committee Amendment to **HB 171** is as follows:

Amend printed copy of **HB 171,** page 1, line 15, by adding "*in accordance with the policy adopted by the local board of education under provisions of this Act*" following the word "school"

page 2, lines 10 through 15, by deleting lines 10 through 15 in their entirety, and by adding in lieu thereof the following:

"*(f) When corporal punishment is administered, it shall be by the school principal or head teacher in the presence of the teacher or by the teacher in the presence of the principal, head teacher, or another teacher who shall have been informed of the reason for such punishment, and in no instance shall corporal punishment be administered in the presence of other pupils; and*"

The Committee on Highways and Traffic Safety reported **HB 498** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 498, AN ACT relating to administrative regulations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 13.080 is amended to read as follows:

As used in KRS 13.080 to 13.125, (1) "administrative body" means each state board, bureau, commission, department, division, authority, officer, or other entity, except the legislature and the courts, authorized by law to make regulations.

(2) "Subcommittee" means administrative regulation review subcommittee.

(3) "Regulation" means each statement of general applicability issued by an administrative body that implements, interprets, or prescribes law or policy, or describes the organization procedure, or practice requirements of any administrative body. The term includes the amendment or repeal of a prior regulation, but does not include

(a) statements concerning only the internal management of an administrative body and not affecting private rights or procedures available to the public, or

(b) declaratory rulings, or

(c) intradepartmental memoranda, *or* [.]

(d) statements relating to acquisition of property for highway purposes and statements relating to the construction or maintenance of highways.

(4) "Affirmative consideration" means that an administrative body must either adopt suggestions or recommendations regarding a regulation or issue a concise statement setting forth the reasons for not adopting suggestions or recommendations regarding a regulation.

(5) Compliance with the provisions of KRS 13.080 to 13.125 does not dispense with the requirements of any other law necessary to make the regulation effective.

The Committee on Judiciary-Statutes reported **HB 468,** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 468, AN ACT relating to ownership of property.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 381 IS CREATED TO READ AS FOLLOWS:

Any alien, not an enemy, who has purchased, or contracted to purchase, any real or personal property, or who holds title thereto, or who obtains possession thereto by descent, devise, or bequest shall take and hold the property free and released from any right or claim of the state by reason of such person's having been an alien. Such ownership shall confer and impose upon the alien all rights, obligations and responsibilities attendant to the ownership of like property by a citizen, but only as such rights, obligations and responsibilities apply directly to the property, and the alien may sue and be sued in any court of competent jurisdiction to enforce such rights by the alien or to impose such obligations or responsibilities against the alien.

Section 2. KRS 381.290, 381.300, 381.310, 381.320, 381.330 and 381.340 are repealed.

The Committee Amendment to **HB 468** is as follows:

Amend printed copy of **HB 468,** page 1, after line 17, insert the following:

SECTION 2. A NEW SECTION OF KRS CHAPTER 381 IS CREATED TO READ AS FOLLOWS:

In any instrument heretofore or hereafter executed purporting to grant a mineral estate or a right to extract minerals by any manner or method of mineral extraction which does not describe the manner or method of mineral extraction in express, specific, clear and convincing terms, notwithstanding any waiver of damages in said instrument, it shall be deemed that the intention of the parties to the instrument was that the minerals be extracted only in the customary manner and method of mineral extraction prevailing at the time the instrument was executed and only with those damages to the surface estate which would reasonably have been contemplated by the parties at the time the instrument was executed; and it shall be further deemed that the mineral estate shall not be dominant to the surface estate for any manner or method of mineral extraction other than that deemed applicable pursuant to this Section.

and on page 1, line 18, by changing "Section 2" to "Section 3".

The Committee on Public Utilities reported **HB 476** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 476, AN ACT relating to the public service commission.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 278.010 TO 278.450 IS CREATED TO READ AS FOLLOWS:
(1) The public service commission shall require that all sewerage corporations under its jurisdiction shall, when submitting an application for a rate change, notify all its customers of the application.
(2) Notification to the customers of the rate change application shall be in writing and shall include an estimate of the probable financial impact upon the customers.
(3) The cost of notifying customers of a rate change shall be borne by the sewarage corporation.
(4) The public service commission shall make such reasonable rules and regulations as are deemed necessary to further the purpose of this Section.

Section 2. Whereas sewerage charge increases are being granted by the public service commission without customers being aware of the increases, an emergency is declared to exist, and this Act shall become effective upon its passage and approval of the Governor.

The Committee on State Government reported **HB 361, HB 406, HB 456, HB 457, HB 499, SB 117,** and **SB 150** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 361, AN ACT relating to railroad policemen.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 277.280 is amended to read as follows:
(1) Each railroad policeman shall, before he enters upon the discharge of the duties of his office, execute bond, with good security, conditioned for the faithful performance of his duty as such policeman, and take and subscribe an oath of office [and the oath required by section 228 of the constitution]. The bond shall be executed in the county court of the county in which the policeman resides, or in which the railroad has its registered process agent, if any, within the state, or in which the policeman performs any duties as a railroad policeman, and the bond shall be approved, and the oath administered, by the county judge. The bond and oath shall be entered of record by the county clerk, and the execution of the bond and the taking of the oath shall be indorsed upon the commission of the person so qualifying. Each policeman so appointed and commissioned shall, throughout the counties through which the railroad operates, have and exercise the powers of sheriffs and constables in making arrests for public offenses committed upon or about railroad property, and in serving process in criminal and penal prosecutions for such offenses, and shall be subject to all the liabilities of sheriffs or constables.
(2) The compensation of railroad policemen shall be fixed and paid by the railroad company for which they are appointed.

HB 406, AN ACT relating to the Legislative Research Commission.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 7.110 is amended to read as follows:

(1) The commission or any member thereof, or an employe duly authorized by the commission or the chairman thereof, shall have access to all records of every agency, division or department of state government, and of any agency or institution, public or private, which has been the recipient of public funds. The commission or any member thereof, or any employe duly authorized by the commission or the chairman thereof, may require information on oath of any person touching any matter which he is instructed to investigate, study or audit, and shall have the power to subpoena witnesses and records for such purpose, and otherwise compel the giving of evidence of any matter under study. If any person fails or refuses to testify or furnish documentary evidence concerning any matter with respect to which the commission desires information pertaining to the studies in which it is engaged, the Franklin Circuit Court, on application of the commission, may compel obedience by proceedings for contempt as in the case of disobedience of a subpoena issued from the circuit court or a refusal to testify therein. Every witness so subpoenaed under this section shall receive for his attendance the fee and mileage provided for witnesses in civil cases in circuit court, which shall be audited and paid upon the presentation of proper vouchers sworn to by the witness and approved by the commission.

(2) All state agencies and institutions shall cooperate with the commission to effectuate the purposes of KRS 7.090 to 7.110 and shall submit copies of their annual or biennial reports to the commission.

(3) The commission shall encourage and arrange conferences with officials of other states and of other units of government; carry forward the participation of this state as a member of the council of state governments, both regionally and nationally, *and as a member of the national conference of state legislatures,* and formulate proposals for cooperation between this state and other states. The legislative research commission shall function as Kentucky's commission on interstate cooperation in carrying out the program of the council of state governments *and of the national conference of state legislatures* as *they relate* [it relates] to Kentucky.

(4) The commission shall designate persons to represent Kentucky at the national conference of commissioners on uniform state laws. The commission shall report the findings and recommendations of the national conference to the general assembly. Any funds appropriated to the commissioners on uniform state laws shall be paid out on vouchers approved by the director of the commission.

(5) The commission may establish such subcommittees and advisory citizens' committees as may be convenient or desired for the proper and efficient performance of its functions. Members of the general assembly designated to serve on subcommittees shall receive the same travel allowances and compensation for attending meetings as commission members receive for attending meetings of the commission. The commission shall report its findings, either with or without recommendations, to the governor of the commonwealth, and to each member of the general assembly at least thirty (30) days prior to the convening of each regular session of the general assembly.

HB 456, AN ACT relating to legal representation for the Department for Natural Resources and Environmental Protection.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 350.990 is amended to read as follows:

(1) Any person or operator who violates any of the provisions of this chapter or regulations adopted pursuant thereto or who fails to perform the duties imposed by these provisions, or fails or refuses to obtain a permit as provided herein, or who violates any determination or order promulgated pursuant to the provisions of this chapter, shall be liable to a civil penalty of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) for said violation, and an additional civil penalty of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) for each day during which such violation continues, and in addition, may be enjoined from continuing such violations as hereinafter provided in this section. Such penalties shall be recoverable in an action brought in the name of the commonwealth of Kentucky by the *department's office of general counsel, or upon the secretary's request, by the* attorney general in the Franklin Circuit Court or in the circuit court having jurisdiction of the defendant, and all sums recovered shall be placed in the state treasury.

(2) It shall be the duty of the *department's office of general counsel, or upon the secretary's request, of the* attorney general [, upon the request of the director,] to bring an action for the recovery of the penalties herein provided for and to bring an action for a restraining order, temporary or permanent injunction, against any operator or other person violating or threatening to violate any of the provisions of this chapter or violating or threatening to violate any order or determination promulgated pursuant to the provisions of this chapter.

(3) Any person who shall willfully violate any of the provisions of this chapter, or any determination or order promulgated pursuant to the sections of this chapter which have become final shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than five hundred dollars ($500) and not more than five thousand dollars ($5,000). Each day on which such violation occurs shall constitute a separate offense.

Section 2. KRS 224.996 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 224.710 to 224.800 or who fails to perform any duties imposed by KRS 224.710 to 224.800, or who violates any determination or order of the department promulgated pursuant thereto shall be liable to a civil penalty of not to exceed the sum of one thousand dollars ($1,000) for said violation, and an additional civil penalty of not to exceed one thousand dollars ($1,000) for each day during which such violation continues, and in addition, may be enjoined from continuing such violations as hereinafter provided in this section. Such penalties shall be recoverable in an action brought in the name of the commonwealth of Kentucky by the *department's office of general counsel, or upon the secretary's request, by the* attorney general.

(2) It shall be the duty of the *department's office of general counsel, or upon the secretary's request, of the* attorney general [, upon the request of the department,] to bring an action for the recovery of the penalties hereinabove provided for, and to bring an action for an injunction against any person violating or threatening to violate any provision of KRS 224.710 to 224.800 or violating or threatening to violate any order or determination of the department promulgated pursuant thereto. In any such action any finding of the agency shall be prima facie evidence of the fact or facts found therein.

(3) (a) Any person who shall wilfully violate any of the provisions of KRS 224.710 to 224.800 or any determination or order of the department promulgated pursuant to those sections which have become final shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) or by imprisonment for a term of not more than one (1) year or by both fine and imprisonment for each separate violation. Each day upon which such violation occurs shall constitute a separate violation.

(b) For violations by motor vehicles, the fine shall be not less than ten dollars ($10) nor more than fifty dollars ($50) for a first offense, and not less than fifty dollars ($50) nor more than one hundred dollars ($100) for each subsequent offense.

(4) The authority herein vested in the *department's office of general counsel, or upon the secretary's request, in the* attorney general [, upon request of the department,] to bring actions for injunctions for violations of KRS 224.710 to 224.800 or of any regulation, or order issued thereto, shall be exclusive. Nothing herein contained shall abridge the right of any person to recover actual compensatory damages resulting from any such violation.

Section 3. KRS 224.997 is amended to read as follows:

Any applicant or certificate holder who fails to provide the information required in KRS 224.852 or falsifies such information shall be liable for a civil penalty of not to exceed the sum of one thousand dollars ($1,000). Such penalty shall be recoverable in an action brought in the name of the commonwealth of Kentucky by the *department's office of general counsel, or upon the secretary's request, by the* attorney general.

Section 4. KRS 146.350 is amended to read as follows:

It shall be the duty of the *department's office of general counsel, or upon the secretary's request, of the* Attorney General [, upon the request of the secretary for natural resources and environmental protection,] to bring an action for the recovery of the penalties provided for in KRS 146.990 and to bring an action for a restraining order, temporary or permanent injunction, for the prevention or correction of a condition constituting or threatening to constitute a violation of KRS 146.200 to 146.350. All actions for injunctive relief for violation of KRS 146.200 to 146.350 shall be brought in the name of the Commonwealth of Kentucky by the *department's office of general counsel, or upon the secretary's request, by the* attorney general in the Franklin Circuit Court. If such action seeks recovery of penalties in addition to injunctive relief, it shall be brought to one of the counties through which the designated portion of the river runs.

Section 5. KRS 151.460 is amended to read as follows:

(1) It shall be the duty of the *department's office of general counsel, or upon the secretary's request, of the* attorney general [, upon the request of the secretary,] to bring an action for the recovery of the penalties herein provided for and to bring an action for a restraining order, temporary or permanent injunction, for the prevention or correction of a condition constituting or threatening to constitute a violation of this chapter, except as provided for in KRS 151.299.

(2) All actions for penalties and injunctive relief for violations of this chapter shall be brought in the name of the Commonwealth of Kentucky by the *department's office of general counsel, or upon the secretary's request, by the* attorney general in the *Franklin Circuit Court* [circuit court of the county in which the applicant resides, or in the circuit court having jurisdiction of the defendant].

Section 6. KRS 217B.990 is amended to read as follows:

(1) Any person who violates any of the provisions of this chapter or who fails to perform any duties imposed by those sections, or who violates any determination or order of the department promulgated pursuant thereto shall be liable to a civil penalty of not to exceed the sum of one thousand dollars ($1,000) for said violation, and an additional civil penalty of not to exceed one thousand dollars ($1,000) for each day during which such violation continues, and in addition, may be enjoined from continuing such violations as hereinafter provided in this section. Such penalties shall be recoverable in an action brought in the name of the commonwealth of Kentucky by the *department's office of general counsel, or upon the secretary's request by the* attorney general.

(2) It shall be the duty of the *department's office of general counsel, or upon the secretary's request, of the* attorney general [, upon the request of the department,] to bring an action for the recovery of the penalties hereinabove provided for, and to bring an action for an injunction against any person violating or threatening to violate any provision of this act or violating or threatening to violate any order or determination of the department promulgated pursuant thereto. In any such action any finding of the department shall be prima facie evidence of the fact or facts found therein.

(3) Any person who shall wilfully violate any of the provisions of this chapter or any determination or order of the department promulgated pursuant to those sections which has become final shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) or by imprisonment for a term of not more than one (1) year or by both fine and imprisonment for each separate violation. Each day upon which such violation occurs shall constitute a separate violation.

HB 457, AN ACT relating to the organization of the Department for Natural Resources and Environmental Protection.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 224.012 is amended to read as follows:

There is established within the Department a Bureau *of Natural* [for Land] Resources and a Bureau *of* [for] Environmental *Protection* [Quality]. Each bureau shall be headed by a Commissioner appointed by the Secretary with the approval of the Governor as required by KRS 12.050. The Commissioners shall be directly responsible to the Secretary and shall perform such functions, powers and duties as provided by law and as the Secretary may prescribe.

HB 499, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 12.020 is amended to read as follows:

Departments, Program Cabinets (and their Departments) and the respective major administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-inclusive. Every authority, board, bureau, interstate compact, commission, committee, conference, council, office or any other form of organization shall be included in or attached to the department or program cabinet in which they are included or to which they are attached by statute or executive order.

I. Departments headed by elected officers.

1. The Governor.
2. Lieutenant Governor.
3. Department of State.
(a) Board of Elections.
4. Department of Law.
(a) Consumers Advisory Council.
5. Department of the Treasury.
6. Department of Agriculture.
(a) State Board of Agriculture.
(b) Milk Marketing and Antimonopoly Commission.
7. Department of Education.
(a) State Board of Education.
(b) State Textbook Commission.
8. Auditor of Public Accounts.
9. Railroad Commission.
II. Cabinet Departments headed by appointed officers:
1. Executive Department for Finance and Administration.
(a) State Property and Buildings Commission.
(b) Turnpike Authority of Kentucky.
(c) Capital Plaza Authority.
(d) Kentucky Housing Corporation.
(e) Kentucky Pollution Abatement Authority.
(f) Kentucky Health and Geriatric Authority.
(g) Kentucky Savings Bond Authority.
(h) County Debt Commission.
2. Department of Transportation.
(a) Railroad Commission.
(b) Motor Vehicle Dealers Board.
3. Department for Natural Resources and Environmental Protection.
(a) Environmental Quality Commission.
(b) Soil and Water Conservation Commission.
(c) Ohio River Sanitation Commission.
4. Department of Justice.
(a) Kentucky Crime Commission.
(b) Parole Board.
(c) Kentucky Law Enforcement Council.
(d) Judicial Training Council.
(e) Commission on Corrections and Community Service.
(f) State Police Personnel Board.
5. Department for Human Resources.
(a) Citizens Commission for Human Resources.
(b) Advisory Council for Medical Assistance.
(c) Unemployment Insurance Commission.
(d) Certificate of Need and Licensure Board.
(e) Generic Formulary Council.
Cabinet for Development.
Department of Agriculture (headed by elected officer).
6. Department of Commerce.
[(a) Economic Development Commission.]
(a) [(b)] Kentucky Industrial Development Finance Authority.
(b) [(c)] Kentucky Science and Technology Commission.
7. Department of Fish and Wildlife Resources.
(a) Fish and Wildlife Resources Commission.
8. Department of Parks.
(a) Breaks Interstate Park Commission.
9. Department of Energy.
Energy resources advisory commission.
10. [9.] Kentucky Historical Events Celebration Commission.
11. [10.] State Fair Board.
12. [11.] Kentucky Geological Survey.

13. Economic Development Commission.
14. The Governor's Council on Agriculture.
15. The farmers advocate's office.
Cabinet for Education and the Arts.
12. Kentucky Arts Commission
Department of Education (headed by elected officer).
13. Kentucky Authority for Educational Television.
14. Kentucky Heritage Commission.
15. Kentucky Historical Society.
16. Department of Library and Archives.
(a) State Archives and Records Commission.
(b) State Board for Certification of Librarians.
17. Advisory Council for Vocational Education and Manpower Development and Training.
Cabinet for Public Protection and Regulation.
18. Department for Alcoholic Beverage Control.
(a) Alcoholic Beverage Control Board.
19. Department of Banking and Securities.
20. Department of Insurance.
(a) Custodian of Insurance Securities.
21. Department of Labor.
(a) Workmen's Compensation Board.
(b) Board of Claims.
(c) Occupational Safety and Health Standards Board.
(d) State labor relations board.
22. Department of Mines and Minerals.
23. Kentucky Registry of Election Finance.
24. Public Service Commission.
25. Kentucky Quarterhorse and Appaloosa Commission.
26. Kentucky State Racing Commission.
27. Kentucky *Harness Racing* [Trotting] Commission.
28. Kentucky Board of Tax Appeals.
III. Other Departments headed by appointed officers:
1. Department of Military Affairs.
2. Department of Personnel.
(a) Personnel Board.
3. Department of Public Information.
4. Department of Revenue.
5. Human Rights Commission.
6. Council on Public Higher Education.
7. Teachers' Retirement System.
8. Kentucky Employees' Retirement System.
9. Commission on Women.
10. Kentucky Tobacco Research Board.
11. Kentucky Center for Energy Research.

Section 2. KRS 12.023 is amended to read as follows:

(1) The following administrative bodies shall be attached to the Office of the Secretary of the Cabinet and shall report directly to the Governor:

[(a) Governor's Council on Agriculture.]
(a) [(b)] Kentucky Council of Economic Advisers.
(b) [(c)] Governor's Judicial Advisory Council.
[(d) Kentucky Energy Council.]
(c) [(e)] Council on Public Higher Education (The State universities and colleges shall report through the Council on Public Higher Education).
(d) [(f)] Kentucky Tobacco Research Board.

(2) The heads of the following departments and administrative bodies shall report to the Secretary of the Cabinet:

(a) Department of Military Affairs.
(b) Department of Personnel.
(c) Department of Public Information.

(d) Department of Revenue.
(e) Human Rights Commission.
(f) Teachers' Retirement System.
(g) Kentucky Employees' Retirement System.
(h) Commission on Women.
(i) Office for state planning.

Section 3. KRS 12.265 is amended to read as follows:

The Cabinets established in KRS 12.250 shall be composed of Departments, Boards and Commissions as follows:

I. Cabinet for Development
A. Department of Agriculture
B. Department of Commerce
C. Department of Fish and Wildlife Resources
D. Department of Parks
E. Department of energy
F. [E.] Kentucky Historical Events Celebration Commission
G. [F.] State Fair Board
H. [G.] Kentucky Geological Survey [.]
I. Economic development commission
J. Governor's council on agriculture
K. Farmers advocate's office.
II. Cabinet for Education and the Arts
A. Kentucky Arts Commission
B. Department of Education
C. The Kentucky Authority for Educational Television
D. Kentucky Heritage Commission
E. Kentucky Historical Society
F. Department of Library and Archives.
III. Cabinet for Public Protection and Regulation
A. Department of Alcoholic Beverage Control
B. Department of Banking and Securities
C. Department of Insurance
D. Department of Labor
E. Department of Mines and Minerals
F. Kentucky Registry of Election Finance
G. Public Service Commission
H. Kentucky Quarterhorse and Appaloosa Commission
I. Kentucky State Racing Commission
J. Kentucky *Harness Racing* [Trotting] Commission
K. Kentucky Board of Tax Appeals.

Section 4. KRS 16.010 is amended to read as follows:

As employed in KRS 16.030 to 16.170, unless the context requires otherwise:

(1) "Department" means the Department of Justice;
(2) "Secretary" means the Secretary of Justice;
(3) "Commissioner" means the Commissioner of the Bureau of State Police;
(4) "Officer" means any member of the Kentucky State Police who possesses the powers of a peace officer;
(5) "Civilian" means such experts, statisticians, clerks, and other assistants who do not possess the powers of a peace officer;
(6) "Board" means the State Police Personnel Board;
(7) "Bureau" means the Bureau of State Police [;]
[(8) "Commander" means the officer appointed to serve as executive assistant to the Commissioner and head of the Office of Operations, the Bureau of State Police].

Section 5. KRS 16.030 is amended to read as follows:

[(1)] The Commissioner shall be more than twenty-eight (28) years of age; shall be a citizen of the United States; and shall be selected on the basis of training, experience and qualifications for this position and preferably shall have at least five (5) years experience in public or police administration.

[(2) The Commissioner shall appoint from the officers of the Bureau one (1) officer to act as commander and as executive assistant. Such appointment may be changed at any time by the Commissioner and any other officer substituted.]

Section 6. KRS 42.013 is amended to read as follows:

(1) The Office of the Commissioner of the Executive Department for Finance and Administration which is hereby created shall include a *chief executive assistant, a deputy commissioner for special projects, and a* [Chief] Deputy Commissioner *for the bureau of facilities management each of whom shall be* appointed by the Commissioner with the approval of the Governor. The Chief *Executive Assistant* [Deputy Commissioner] shall be responsible to and have such authority to sign for the Commissioner as the Commissioner designates in writing.

(2) There shall be a General Counsel appointed pursuant to KRS 12.210 attached to the office of the Commissioner to provide legal services for the Department. The Attorney General on request of the Commissioner may designate the General Counsel as an Assistant Attorney General pursuant to KRS 15.105.

(3) The Commissioner may employ and maintain, with the approval of the Department of Personnel, such other supporting staff as he deems necessary to execute the functions, duties, and responsibilities of the Department.

(4) All appointments under this chapter to positions not in the classified service shall be made pursuant to KRS 12.050 and such appointees shall be major assistants to the Commissioner and shall assist in the development of policy.

Section 7. KRS 42.014 is amended to read as follows:

(1) There is established within the Department the Office for Policy and Management and the Office for Local Government, each of which shall be headed by an Executive Director responsible to the Commissioner and appointed by the Commissioner upon approval of the Governor. Each of the offices shall have the duties and responsibilities assigned to it [by Executive Orders 72-1167, 72-1168, 72-1169, 73-425 and 73-918 until changed] by the Commissioner.

(2) There is established within the Department a Bureau of Administrative Services [, a Bureau of Facilities Management] and *an office* [a Bureau] of Computer Services, each of which shall be headed by a Director responsible to the Commissioner and appointed by the Commissioner upon approval of the Governor. *There is established within the department a bureau of facilities management which shall be headed by the deputy commissioner for the bureau of facilities management.* Each of the bureaus shall have the duties and responsibilities assigned to it [by Executive Orders 73-425 and 73-918 until changed] by the Commissioner.

(3) The Commissioner shall establish the internal organization and assignment of functions which are not established by statute, and shall divide the Department into such offices, bureaus, divisions or other units as the Commissioner may deem necessary to perform the functions, powers and duties of the Department, subject to the provisions of KRS Chapter 12.

Section 8. KRS 42.016 is amended to read as follows:

The following corporate bodies and instrumentalities of the Commonwealth shall be attached to the Office of the Commissioner for administrative purposes and staff services:

(1) State Planning Committee;
(2) Kentucky Urban Affairs Council;
(3) Kentucky Health and Geriatric Authority;
(4) Turnpike Authority of Kentucky;
(5) State Property and Buildings Commission;
(6) Kentucky Housing Corporation;
(7) Kentucky Pollution Abatement Authority;
(8) Capital Plaza Authority;
(9) Kentucky Savings Bond Authority;
(10) County Debt Commission [;]
[(11) Spindletop Foundation].

Section 9. KRS 45.360 is amended to read as follows:

(1) The [director of engineering for contractual services related to real property and capital construction projects and the] executive department for finance and administration [for other purchasing services, under the direction of the commissioner of the executive department for finance and administration,] shall purchase, or shall delegate and control the purchase of, the combined requirements of all spending agencies of the state including, but not limited to, interests in real property, contractual services, rentals of all types, supplies, materials, equipment, and services, except that competitive bids may not be required:

(a) For contractual services where no competition exists, such as telephone service, electrical energy, and other public utility services;

(b) When in the judgment of the executive department for finance and administration food, clothing, equipment, supplies, or other materials to be used in laboratory and experimental studies can be purchased otherwise to the best advantage of the state; and instructional materials available from only one (1) source;

(c) Where rates are fixed by law or ordinance;

(d) For library books;

(e) For commercial items that are purchased for resale;

(f) For professional, technical, or artistic services (Contracts exempted by this provision shall be referred to the department of personnel for review and approval);

(g) For all other commodities, equipment and services which, in the reasonable discretion of the executive department for finance and administration, are available from only one (1) source; and

(h) Interests in real property.

(2) Nothing in this section shall deprive the executive department for finance and administration from negotiating with vendors who maintain a general service administration price agreement with the United States of America or any agency thereof; provided, however, that no contract executed under this provision shall authorize a price higher than is contained in the contract between general service administration and the vendor affected.

(3) The executive department for finance and administration shall have supervision over all purchases by the various spending agencies, except as otherwise provided by law, and shall prescribe rules and regulations to govern purchasing by or for all such agencies, subject to the approval of the commissioner of the executive department for finance and administration, and shall publish a manual of procedures to be distributed to agencies and to be revised upon issuance of amendments to such procedures. No purchase or contract shall be binding on the state or any agency thereof unless approved by the department or made under general regulations which the executive department for finance and administration may prescribe.

(4) The executive department for finance and administration shall adopt regulations to require agencies to take and maintain inventories of plant and equipment. The executive department for finance and administration shall conduct periodic physical audits of inventories.

(5) The executive department for finance and administration shall require all agencies to furnish an estimate of specific needs for supplies, materials, and equipment to be purchased by competitive bidding for the purpose of permitting scheduling of purchasing in large volume. He shall establish and enforce schedules for purchasing supplies, materials, and equipment. In addition, all agencies shall submit to the executive department for finance and administration prior to the beginning of each fiscal year an estimate of all needs for supplies, materials, and equipment during that year which will have to be acquired through competitive bidding.

(6) The executive department for finance and administration shall have power, with the approval of the commissioner of the executive department for finance and administration, to transfer between departments, to salvage, to exchange, and to condemn supplies, equipment, and real property.

(7) The executive department for finance and administration shall sell or otherwise dispose of all property (including any interest in real property) of the state which is not needed or has become unsuitable for public use, or would be more suitable consistent with the public interest for some other use, as determined by the commissioner of the executive department for finance and administration. The determination of the commissioner of the executive department for finance and administration shall be set forth in an order, and shall be reached only after review of a written request by the agency desiring to dispose of the property. Such request shall describe the property and state the reasons why the agency believes disposal should be effected. All instruments required by law to be recorded which convey any interest in any such real property so disposed of shall be executed and signed by the commissioner of the executive department for finance and administration and approved by the governor. Unless the commissioner of the executive department for finance and administration deems it in the best interest of the state to proceed otherwise, all such property (including any interests in real property) shall be sold either by invitation of sealed bids or by public auction, provided however that the selling price of any interest in real property shall not be less than the appraised value thereof as determined by the department of revenue, or department of transportation for such requirements of that department.

(8) Except as provided in KRS chapters 175, 176, 177 and 180, the executive department for finance and administration shall purchase or otherwise acquire all real property determined to be needed for state use, upon the approval of the commissioner of the executive department for finance and administration as to the determination of need and as to the action of purchase or other acquisition, provided that the amount paid shall not exceed the appraised value as determined by the department of revenue, department of transportation (for such requirements of that department), or value set by eminent domain procedure.

(9) Real property or any interest therein may be purchased, leased, or otherwise acquired from any officer or employe of any agency of the state upon a finding by the executive department for finance and

administration, based upon a written application by the head of the agency requesting the purchase, and approved by the commissioner of the executive department for finance and administration and the governor, that the employe has not either himself or through any other person influenced or attempted to influence either the agency requesting the purchase of the property of the executive department for finance and administration in connection with such acquisition. In any case in which such an acquisition is consummated, the said request and finding shall be recorded and kept by the secretary of state along with the other documents recorded pursuant to the provisions of KRS chapter 56.

(10) The executive department for finance and administration shall maintain records of all purchases and sales made under its authority and shall make periodic summary reports of all transactions to the commissioner of the executive department for finance and administration, the governor, and the general assembly. The executive department for finance and administration shall also report trends in costs and prices, including savings realized through improved practices, to the above authorities.

(11) For capital construction projects, the bidding may be on a total design-bid basis; a package system commonly referred to as "turn key"; phase bidding commonly referred to as "fast track"; or construction management, whichever in the judgment of the commissioner of the executive department for finance and administration offers the lowest real cost to the taxpayer. Bids when delegated to and are received by construction managers shall be reviewed by the engineering staff to assure quality and value, and compliance with bid procedures. All specifications shall be written to promote competition.

(12) The executive department for finance administration [and the director of the division of engineering] shall attempt in every practicable way to insure the state's supplying its real needs at the lowest possible cost.

Section 10. KRS 147.070 is amended to read as follows:

(1) The governor's cabinet shall:

(a) Prepare and adopt plans for complete systems of state or regional highways, expressways, parkways, parks, water supply and forest reservations, airways and air terminals, and other things of significance in furthering a well balanced development of the state.

(b) Advise with state agencies, local authorities and individuals with a view to the coordination of all physical development plans that are related to state activities.

(c) Make surveys of rural land utilization with a view to the determination of the areas suitable for field crops, reforestation, watershed protection, recreation and urban expansion.

(d) Draft for submission to the general assembly such regulations affecting the use and development of property as are deemed reasonable and necessary for orderly and coordinated developments preserving the integrity of officially approved plans or conserving the natural resources of the state.

(e) Collect and publish information relating to welfare problems affecting the people of the state and make such recommendations on those problems to the general assembly as may seem advisable and proper.

(f) Cooperate with planning boards of other states and the national planning board.

(g) Act as a research broker in assisting state government to meet its research needs and to perform such functions also upon request from local governments.

(2) The cabinet shall have such powers as are necessary to promote state planning and to enable it to carry out the purposes of KRS 147.070 to 147.100.

(3) All public officials shall upon request furnish to the governor's cabinet, within a reasonable time, such available information as it may require for its work. The members and employes of the cabinet may, in the performance of their functions, enter upon any land, make examinations and surveys and place and maintain necessary monuments and marks thereon.

(4) Every state officer or agency, before requesting legislative or executive approval of a plan or authorization of an appropriation for a major public improvement related to or affected by any general plan prepared under authority of KRS 147.070 to 147.100, or before requesting a change of use or disposition of real property that is owned by the state or in which the state has an interest, shall make a written request to the governor's cabinet for its recommendations, and shall give the cabinet a reasonable opportunity to study and make its recommendations thereon.

Section 11. A new section of KRS Chapter 147 is created to read as follows:

(1) There is established an office for state planning under and attached to the office of the secretary of the cabinet.

(2) The office shall be headed by a director appointed by the secretary of the cabinet, subject to the written approval of the Governor. The director may appoint and employ, with the concurrence of the secretary of the cabinet, such assistants and other personnel as the director deems necessary to carry out and perform the functions vested in the office for state planning.

(3) The office for state planning shall provide staff services for and advise the state planning committee in carrying out its functions and duties pertaining to the approval of state planning studies as may be

approved by the state planning committee for funding out of the State Planning Fund.

(4) The office shall develop policies, criteria, guidelines and procedures for the proper utilization of research and planning consultants for approval by the state planning committee.

Section 12. KRS 147.075 is amended to read as follows:

As used in KRS 147.070 to 147.120 the term "Governor's Cabinet" shall mean the "Governor's Executive Cabinet" and such other persons as the Governor may designate to compose the membership of the "State Planning Committee." The Governor shall serve as Chairman of the State Planning Committee, the Secretary of the Cabinet shall serve as Vice Chairman, and the [Executive] Director of the Office for *state planning* [Policy and Management] shall serve as Secretary.

Section 13. KRS 147A.030 is amended to read as follows:

[(1) The executive director of the office for policy and management is designated as state planning officer and shall serve as the secretary to the state planning committee.

(2) The office for policy and management is designated as the official state planning office through which the policies and procedures adopted by the state planning committee are promulgated.

(3) This office shall serve as the state's officially designated planning and research agency and shall administer the commonwealth's developmental planning funds.]

(1) [(4)] *The executive department for finance and administration* [This office] shall designate development areas, development organizations, and approve area development programs as well as provide the state's approval to proposals to federal agencies when state approval is provided for in applicable federal law unless otherwise provided for in Kentucky statutes; however, final determination and certification of proposals to federal agencies shall be at the discretion of the unit submitting the proposal.

(2) [(5)] The *department* [office for policy and management] shall serve as the technical information agency for the dissemination of information and technical matters to local units of government.

Section 14. A new section of KRS Chapter 152 is created to read as follows:

There is hereby created an agency of state government to be known as the Kentucky center for energy research. The center shall be headed by an administrator, who shall be appointed by and report directly to the Governor.

Section 15. A new section of KRS Chapter 152 is created to read as follows:

(1) There is hereby created a board of energy research. The Governor shall serve as chairman. The administrator of the Kentucky center for energy research shall serve as a member of the board and vice-chairman. The following named officials shall serve as members of the board ex-officio:

(a) The Secretary of Development, or his designee;
(b) The Commissioner, Department of Energy;
(c) The Secretary of Natural Resources and Environmental Protection, or his designee;
(d) The Secretary of Transportation, or his designee;
(e) The Secretary of the Cabinet, or his designee;
(f) The Director, Office of State Planning;
(g) The Dean of the College of Engineering, University of Kentucky;
(h) The Dean of the University of Louisville, Speed Scientific School;
(i) Five (5) additional members shall be named by the Governor.

(2) The Board shall meet at least once each calendar quarter or more often on the call of the Chairman, or with the Chairman's approval, at the call of the Vice Chairman.

(3) The Board shall be responsible for approving demonstration projects to be supported by the Energy Development and Demonstration Trust Fund.

(4) The Board is authorized to solicit, receive and administer Federal or State agency funds in relation to Federal or State programs of long-range energy planning research and demonstration projects.

(5) The Administrator and the staff of the Center shall serve as staff for the Board. The Board shall also advise the Administrator in establishing long-range goals and objectives for the Center. Members of the Board shall not be otherwise compensated but shall be reimbursed for expenses incurred in connection with the exercise of their duties at the Center.

Section 16. KRS 152.310 is amended to read as follows:

As used in KRS 152.310 to 152.390, *and Section 14 of this Act* unless the context requires otherwise, the term "research" includes scientific, technical, and economic research and the practical application of that research; the term *"administrator"* ["secretary"] shall mean the *administrator of the Kentucky center for energy research;* [secretary for development] *the term "board" shall mean the board for energy research.*

Section 17. KRS 152.320 is amended to read as follows:

The *administrator* [secretary] shall formulate and execute an extensive overall research program designed to develop new and more effective uses for fossil fuels, hydrocarbons and other natural resources and to improve and expand existing uses for fossil fuels, hydrocarbons and other natural resources.

Section 18. KRS 152.330 is amended to read as follows:

The *administrator* [secretary] shall:

(1) Contract for, sponsor, cosponsor, and promote the coordination of research projects conducted by the federal government and its agencies, industrial associations, educational institutions, qualified nonprofit organizations, qualified private consulting firms, private industry, and other agencies. In this phase of the program the *administrator* [secretary] shall attempt to make use of every existing suitable research facility in Kentucky;

(2) Collect and promote the coordination of all available research information on the production, preparation, distribution, and uses of fossil fuels, hydrocarbons and other natural resources;

(3) Make available to the public generally all information, uses, products, processes, patents, and other developments resulting from research authorized by KRS 152.310 to 152.390;

(4) Cooperate to the fullest extent possible with all state government agencies, federal government agencies, departments, independent establishments, and all other interested agencies, governmental and nongovernmental, public and private, domestic and foreign. Before the *administrator* [secretary] initiates any research under the authority of KRS 152.310 to 152.390 he shall first consult with such departments, agencies, or independent establishments of the federal government and of state governments in order to avoid duplication of effort and expense;

(5) Conduct research projects itself only when he is unable to contract or otherwise provide for the desired research to be conducted by any other qualified organization or medium on reasonable terms and conditions.

Section 19. KRS 152.340 is amended to read as follows:

(1) Whenever in the estimation of the *administrator* [secretary] the purposes of KRS 152.310 to 152.390 would be furthered through the use of patented processes or equipment, the *administrator* [secretary] is authorized to enter into such agreements as he deems necessary for the acquisition or use of such patents on reasonable terms and conditions.

(2) The *administrator* [secretary] is authorized to acquire by condemnation, purchase, lease, or otherwise such real property as may be necessary to enable him to carry out his duties under KRS 152.310 to 152.390.

(3) The *administrator* [secretary] may accept funds that are donated or otherwise made available to him, and spend them in the program established by KRS 152.310 to 152.390.

Section 20. KRS 152.350 is amended to read as follows:

(1) The *administrator* [secretary] may conduct the program established by KRS 152.310 to 152.390 from one (1) physical office. The office may be located in or near a government or academic research center, and it may be moved.

(2) The *administrator* [secretary] may employ a research specialist to conduct the program established by KRS 152.310 to 152.390, and such other employes as may be necessary. The research specialist shall be a person with experience in industrial or chemical research.

Section 21. KRS 152.360 is amended to read as follows:

The *administrator* [secretary] may finance studies by academic institutions or academic persons under the program established by KRS 152.310 to 152.390. The *administrator* [secretary] shall recommend to the governor the institutions and persons to which and the specific purposes for which study grants should be made, and grants shall be made by the governor. In making his recommendations the *administrator* [secretary] may call special attention to institutions or persons that have developed or promise to develop a new chemical, a new by-product, or another derivative from fossil fuels, hydrocarbons or other natural resources.

Section 22. KRS 152.390 is amended to read as follows:

In cooperation with the superintendent of public instruction, the council on public higher education and the governing bodies of the state institutions of higher learning, the *administrator* [secretary] shall, wherever feasible, make plans and provisions for extending the program established by KRS 152.310 to 152.390 into the regular courses of instruction in chemistry in the public high schools and junior colleges, and state universities and colleges.

Section 23. KRS 152.755 is amended to read as follows:
The *administrator of the Kentucky center for energy research,* [secretary of the development cabinet] with the approval of the governor, may execute contracts to design, construct, or operate development or demonstration projects, *subject to the approval of the board.* To such end, the *administrator* [secretary] may execute such agreements up to a maximum of fifty million dollars ($50,000,000) for the period July 1, 1974 to January 1, 1979. Funds required under such agreement shall be deemed a necessary governmental expense and paid by the state treasurer upon approval of the executive department for finance and administration. A copy of each agreement executed shall be filed with the legislative research commission.

Section 24. KRS 152.760 is amended to read as follows:
The *board* [secretary of the development cabinet] may, if any project is deemed economically feasible, request the state property and buildings commission to issue revenue bonds pledging proceeds, including the severance tax on coal produced as a result of the project, for debt service to meet monetary commitments under any contract executed.

Section 25. KRS 152.770 is amended to read as follows:
The general assembly recognizes that the chance of failure as well as the promise of success affects the developmental and demonstration projects for which state support and joint participation is herein authorized. The liability of the commonwealth in such projects shall be limited to the express provisions of the contracts and agreements herein authorized, and the commonwealth's claims against other participants in projects herein authorized shall also be limited to the expressed provisions of such contracts and agreements. The *board* [secretary of the development cabinet], or *its* [his] successor, and agents shall be held harmless by the commonwealth in the event of failure, abandonment, or termination of any project prior to completion, and the commonwealth shall defend and indemnify the *board, its* [secretary, his] successor, and agents against any suits related to the administration of KRS 152.750 to 152.785 to the extent funds are available in the indemnity account authorized in KRS 152.785.

Section 26. KRS 152.780 is amended to read as follows:
The *administrator* [secretary of the development cabinet] may, with the prior approval of the commissioner, executive department for finance and administration, employ staff to assist in the administration of KRS 152.750 to 152.785 and the costs may be charged against the fund.

Section 27. KRS 152.785 is amended to read as follows:
(1) There is hereby established in the treasury of the commonwealth a trust fund to be known as the "Energy Development and Demonstration Trust Fund," herein referred to as the "fund." The fund shall consist of such amounts as may be appropriated by the general assembly, interest earned on monies of the fund, grants, or private contributions for the purpose of implementing KRS 152.750 to 152.780. The fund shall be managed by the *board* [secretary for the development cabinet] and all expenditures therefrom must be approved by the *board* [secretary] or *its* [his] designated representative or the successor positions. Unexpended balances in the fund shall be invested in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States, of maturities not in excess of five (5) years, and the interest on and proceeds from the sale or redemption of any investments held in the fund shall be credited to and form a part of the fund.
(2) It shall be the duty of the *board* [secretary for the development cabinet] or *its* [his] delegate to manage the fund for the purposes authorized herein, and to use the fund to satisfy the obligation of the state to share proportionally with the federal government and any private participant or participants the capital costs and expenses of any authorized demonstration project or projects. If expenditures from the fund have not been made or committed as a part of the commonwealth's obligation for financial participation in any development or demonstration project on or before January 1, 1979, the entire fund shall revert to the general expenditure fund of the commonwealth.
(3) The commissioner of the executive department for finance and administration is hereby authorized to establish an "Indemnity Account" within the "Fund" and to allocate monies to the account from funds appropriated or otherwise available in the fund. The indemnity account shall be used to satisfy any court judgments under KRS 152.770 to the extent that monies are available in said indemnity account.

Section 28. KRS 152.020 is amended to read as follows:
(1) There is hereby created an agency of the state government to be known as the department of commerce, which shall constitute a department of the state government within the meaning of KRS chapter 12. The department shall consist of a commissioner, an economic development commission and such administrative bodies and employes as are provided by law.

(2) The department, subject to the provisions of KRS 12.010 to 12.190, shall be organized into a division devoted to industrial development, *a business development division,* a division devoted to research and planning, a division devoted to community services and such other divisions and sections as are from time to time deemed necessary for the proper and efficient operation of the department.

(3) The executive officer of the department shall be the commissioner of the department of commerce. He shall be appointed by the governor and shall serve at the pleasure of the governor. The commissioner shall have general supervision and direction over all activities and functions of the department and its employes, and shall be responsible for carrying out the programs and policies of the department. He shall be the chief executive officer of the department and, as such, shall have authority to enter into contracts, subject to the approval of the commissioner of the Executive Department for Finance and Administration, when such contracts are deemed necessary to implement and carry out the program of the department. He shall reimburse the travel expenses of the commission.

Section 29. KRS 152.050 is amended to read as follows:

There is hereby created in the *development cabinet* [department] an economic development commission composed of not more than *twenty-two (22)* [twenty-one (21)] members. The commissioner of agriculture, *the secretary of the development cabinet* and the commissioners of the departments of labor and commerce shall serve, ex officio. The other eighteen (18) members shall be appointed by the governor for terms of one (1) year. The governor shall designate one (1) of the members to serve as chairman, and the commissioner of commerce shall act as secretary. The commission shall serve in an advisory capacity to the commonwealth in the planning and development of its total program for economic development. The cost of administrative facilities and services for the commission shall be paid by the *cabinet for development* [department of commerce].

Section 30. A new section of KRS Chapter 152 is created to read as follows:

(1) There is created within the development cabinet an agency of state government to be known as the department of energy, which shall constitute a department of the state government within the meaning of KRS Chapter 12. The department shall consist of a commissioner, an energy resources advisory commission and such administrative bodies and employes as are provided for by law.

(2) The department, subject to the provisions of KRS Chapter 12.010 to 12.190, shall be organized into a division of conservation, a division of allocation and a division of resource development.

(3) The commissioner of the department of energy shall be appointed by the governor and shall serve at the pleasure of the governor. The commissioner shall have general supervision and direction over all activities and functions of the department and its employes, and shall be responsible for carrying out the programs and policies of the department. He shall be the chief executive officer of the department and, as such, shall have authority to enter into contracts, subject to the approval of the commissioner of the Executive Department for Finance and Administration, when such contracts are deemed necessary to implement and carry out the programs of the department. He shall serve as the Governor's Energy Allocation, Conservation and Development Policy Advisor.

(4) The Department of Energy shall be the state agency with primary responsibility for all non-research energy programs not otherwise assigned to existing agencies. The primary purpose of the department will be to develop and recommend programs for the development and utilization of energy in a manner to meet essential human needs while maintaining the Kentucky economy at the highest feasible level.

Section 31. A new section of KRS Chapter 152 is created to read as follows:

There is created in the department of energy an energy resources advisory commission. The secretary of development shall serve as chairman and the commissioner of energy as secretary. The secretary of transportation, the secretary of natural resources and environmnetal protection, the commissioner of mines and minerals, the commissioner of commerce and the chairman of the public service commission shall serve as ex-officio members. The other members shall be appointed by the governor for terms of four years. The commission shall advise the commissioner of energy and the secretary of development on all phases of the Kentucky energy program. The commission shall meet at least quarterly. The cost of administrative facilities and services for the commission shall be paid by the department of energy.

Section 32. A new section of KRS Chapter 152 is created to read as follows:

The duties and functions of the department of energy shall be to:

(1) prepare and maintain a continuous inventory of energy requirements and available supplies and capacities;

(2) formulate and update annually a comprehensive energy management program for the Commonwealth which shall specify alternative ways in which projected demands for all forms of energy may be met by projected or developable supplies;

(3) formulate and update at least annually a contingency plan to cope with any energy shortages which may occur from time to time;

(4) administer all programs relating to curtailment, allocation, conservation, planning, and management of all forms of energy not specifically mandated by existing statute;

(5) develop and encourage a comprehensive program for the wise development of all forms of energy in the Commonwealth, consistent with economic feasibility, environmental protection, and safety and health;

(6) develop, in cooperation with and through existing agencies, a process for the regulation of the siting of energy production, conversion, distribution, and transmission facilities;

(7) serve as a central access in State Government for the collection, maintenance, and analysis of data, and information on all forms of energy supplies, demand, conservation, and related subjects;

(8) develop major conservation programs involving all sectors of the Kentucky economy and including broad public educational efforts as to desirable conservation and utilization practices;

(9) investigate problems referred to it by the general public concerning energy shortages and seek solutions from any available public and private sources;

(10) review, study, and monitor the efficiency of energy utilization in State Government operations, including the areas of construction, transport, waste disposal and recycling, fuels use, tax policies, and other energy matters, and suggest remedial measures.

(11) review the Kentucky Revised Statutes to determine how laws can be modified to promote optimum energy use, encourage conservation, and discourage waste of our energy resources through utilization, to the degree possible, of personnel most directly involved with the functioning of the laws under construction;

(12) recommend research and development efforts which will contribute to the integrity and adequacy of Kentucky's energy resources, with particular emphasis given to recommendations for research and development for utilization of coal resources and pollution control methods which will facilitate utilization of coal;

(13) recommend content and procedures for energy resource statements on all projects similar to the existing systems of environmental impact statements;

(14) review state building codes to insure a minimum standard of insulation and heat-saving or shielding devices, including ventilation, to reduce the need for mechanical air conditioning;

(15) review on a continuing basis utility rates, tax rates, license fees, and other regulatory or revenue-sharing practices for their impact on energy consumption;

(16) expedite the production of energy and energy producing fuels in Kentucky through correlation of appropriate programs of other agencies;

(17) participate with the Federal Energy Administration and other appropriate Federal agencies in administering programs relating to production, allocation, planning, or conservation of energy;

(18) conduct research on the impact of current and future energy supply and demand on the Kentucky economy and perform research on transportation, manpower, materials and other appropriate areas that affect the production of fossil fuels;

(19) appear and participate in proceedings before the Federal Energy Administration, the Federal Power Commission, and any other local, state, regional, or federal agency relating to the duties of the department; and

(20) perform other functions related to energy assigned by the Governor and Secretary of Development.

Section 33. KRS 164.947 is amended to read as follows:

(1) *The* [On recommendation of the] Council on Public Higher Education [, the State Board of Education] by regulation shall adopt standards and procedures for the licensing of colleges to ensure that the programs of preparation are comparable to the generally accepted standards of collegiate instruction with respect to faculty, curriculum, facilities, and student cost and that there is full disclosure with respect to the philosophy and purposes of the institutions and their capacity to fulfill these objectives.

(2) Nothing contained in KRS 164.945 to 164.947 is intended in any way nor shall be construed to regulate the stated purpose of a non-public college or to restrict religious instruction or training in a non-public college.

(3) Immediately from March 25, 1972, all colleges as defined herein shall be required to hold a license issued by the *executive director of the council on public higher education* [Superintendent of Public Instruction] under the provisions of KRS 164.945 to 164.947 and under the regulations of the *council on public higher* [State Board of] Education provided that any college actually in operation on March 25, 1972, shall be permitted to continue in operation until a license has been issued or has been denied.

(4) The designated use of the title "college" or "university" in combination with any series of letters, numbers or words shall be restricted to the institutions licensed under KRS 164.945 to 164.947 or to such institutions which were in operation on March 25, 1972, except that new branches, divisions, or additions to existing institutions shall be licensed.

Section 34. KRS 174.020 is amended to read as follows:

The Department of Transportation in addition to the bureaus set forth in KRS 174.015 shall consist of the following organizational units which are hereby created or re-established:

(1) Office of the Secretary of Transportation comprised of the Secretary of Transportation, Office of *transportation* Safety Coordinator, [Transportation Planning Committee,] Office of Transportation Planning, the aeronautics and airport zoning programs, the budget and audit review functions, *equal opportunity employment, public affairs*;

[(2) Executive Office of Staff Services;]

(2) [(3)] Railroad Commission, attached to the Office of the Secretary for administrative purposes;

(3) [(4)] Office of the General Counsel*;*

(4) Office of Personnel Management;

(5) Office of Administrative Services.

Section 35. KRS 194.040 is amended to read as follows:

(1) The Secretary shall, subject to the provisions of KRS Chapter 12, establish the internal organization of the offices and bureaus not established in 1974 Acts ch. 74, Art. VI, and shall organize the Department into such offices, divisions and other administrative units as the Secretary deems necessary to perform the functions, exercise the powers, and fulfill the duties of the Department.

[(2) The internal organization of the Department not established in 1974, Acts ch. 74, Art. VI, shall remain as established in Executive Orders 73-777, 73-1038 and 74-47 until changed by the Secretary pursuant to KRS Chapter 12.]

(2) [(3)] The Secretary shall have any and all necessary powers and authority subject to appropriate provisions of the statutes to create such positions and employ the necessary personnel in such positions to enable the Department to fulfill all functions assigned to it. The Secretary shall designate a person to act as deputy for him in the exercise of his duties in his absence.

[(4) All units of the Department enumerated in Executive Orders 73-777, 73-1038 and 74-47 shall be considered major organizational units, and persons appointed to head the units shall be major assistants to the Secretary and shall assist the Secretary in making and carrying out policy. Appointments to said positions shall be made in accordance with the provisions of KRS 12.050.]

(3) [(5)] The Secretary shall with the approval of the Governor elect coverage for employes of the Department under the unemployment insurance law when required by federal law.

Section 36. KRS 194.110 is amended to read as follows:

(1) The Kentucky Drug Formulary Council and its associated bodies are hereby attached to the Bureau for Health Services for administrative and support purposes. The Kentucky Drug Formulary Council shall advise the Council for Health Services, the Secretary for Human Resources, and the Commissioner for Health Services on the administration and operations of the generic drug formulary program. The composition, structure, authority, responsibilities, activities, programs, and resources of the Kentucky Drug Formulary Council shall continue and remain in its present form except that it shall not have the authority to expend funds, hire employees, issue grants, or otherwise engage in the normal administrative process of the Department. This authority and responsibility shall reside exclusively with the Secretary for Human Resources and such employees of the Department designated by the Secretary to hold these powers.

(2) The Kentucky Certificate of Need and Licensure Board and its associated bodies are hereby attached to the Bureau for Health Services for administrative and support purposes. The Kentucky Certificate of Need and Licensure Board shall advise the Council for Health Services, the Secretary for Human Resources, and the Commissioner for Health Services on the administration and operations of the Certificate of Need and Licensure Program. The composition, structure, authority, responsibilities, activities, programs, and resources of the Kentucky Certificate of Need and Licensure Board shall continue and remain in its present form, except that it shall not have authority to expend funds, hire employees, issue grants, or otherwise engage in the normal administrative processes of the Department. This authority and responsibility shall reside exclusively with the Secretary for Human Resources and such employees of the Department designated by the Secretary to hold these powers.

(3) The Advisory Council for Medical Assistance and its associated bodies are hereby attached to the Bureau for Social Insurance for administrative and support purposes. The Advisory Council for Medical Assistance shall advise the Council for Social Insurance, the Secretary for Human Resources and the Commissioner for Social Insurance on the administration and operations of the Medical Assistance Program. [The composition, structure, authorities, responsibilities, activities, programs, and resources of the Advisory Council for Medical Assistance shall continue and remain in its present form except as limited by Executive Order 74-47.]

(4) The Comprehensive Health Planning Council and its associated bodies are hereby attached to the Bureau for Health Services for administrative and support purposes. The Comprehensive Health Planning Council shall advise the Council for Health Services, the Kentucky Certificate of Need and Licensure Board, the Secretary for Human Resources, and the Commissioner for Health Services on the total health service, facility, and resource needs of the Commonwealth and the allocation of resources to address those needs. [The composition, structure, authority, responsibilities, activities, programs, and resources of the Comprehensive Health Planning Council shall continue and remain in its present form except as limited by Executive Order 74-47.]

(5) The Board of the Bureau for Veterans Affairs and its associated bodies are hereby attached to the Bureau for Social Services for administrative and support purposes. The Board of the Bureau for Veterans Affairs shall advise the Council for Social Services, the Secretary for Human Resources, the Commissioner for Social Services, and the Executive Director of the Center for Veterans Services on the administration of the veterans services program operated by the Department for Human Resources. The composition, structure, authority, responsibilities, activities, programs, and resources of the Board of the Bureau for Veterans Affairs shall continue and remain in its present form except as limited by Executive Order 74-47. The Board of the Bureau for Veterans Affairs is hereby renamed the Advisory Board for Veterans Affairs.

[(6) The Water and Sewage Plant Operators' Licensing Board and its associated bodies are hereby attached to the Bureau for Health Services for administrative and support purposes. The Water and Sewage Plant Operators' Licensing Board shall advise the Council for Health Services, the Secretary for Human Resources, and the Commissioner for Health Services on the administration and operations of the Water and Sewage Plant Operators' Licensing Program. The composition, structure, authority, responsibilities, activities, programs, and resources of the Water and Sewage Plant Operators' Licensing Board shall continue and remain in its present form, except as limited by Executive Order 74-47.]

Section 37. KRS 194.120 is amended to read as follows:

The Kentucky Certificate of Need and Licensure Board [,] *and* the Kentucky Drug Formulary Council [, and the Water and Sewage Plant Operators' Licensing Board] shall be the only statutory bodies attached to the Department that shall have the authority to issue administrative regulations. No other corporate body or instrumentality of the Commonwealth, advisory committee, interstate compact, or other statutory body, presently or hereinafter attached to the Department, shall issue administrative regulations, but shall operate only in an advisory capacity.

Section 38. KRS 194.180 is amended to read as follows:

All rules, regulations, acts, determinations, and decisions of or by the corporate bodies or instrumentalities of the Commonwealth, advisory committees, inter-state compacts, or other statutory bodies, transferred in whole or in part to the Citizens' Commission for Human Resources, the Institute for Aging, the Institute for Children, the Council for Health Services, the Council for Social Insurance, the Council for Manpower Services, the Council for Social Services, the Advisory Council for Medical Assistance, [the Water and Sewage Plant Operators' Licensing Board,] the Comprehensive Health Planning Council, and the Advisory Board for Veterans Affairs, shall remain in effect as rules, regulations, acts, determinations, and decisions of the Department unless duly modified or repealed by the Secretary.

Section 39. KRS 194.190 is amended to read as follows:

The Citizens' Commission for Human Resources, the Institute for Aging, the Institute for Children, the Council for Health Services, the Council for Social Insurance, the Council for Manpower Services, the Council for Social Services, the Advisory Council for Medical Assistance, [the Water and Sewage Plant Operators' Licensing Board,] the Comprehensive Health Planning Council, the Advisory Board for Veterans Affairs, the Kentucky Drug Formulary Council, and the Kentucky Certificate of Need and Licensure Board shall be empowered to accept gifts and grants, but all such monies shall be administered by the Department, which shall administer these funds through appropriate trust and agency accounts.

Section 40. KRS 194.210 is amended to read as follows:

Whenever the Kidney Disease Advisory Council, the Family Planning Committee, the Tuberculosis Commission, the Kentucky Manpower Commission, the Kentucky Advisory Committee on Day Care, the Kentucky Children's Advisory Council, the State Advisory Committee for Public Assistance, the Kentucky Commission on Employment of the Handicapped, the Advisory Committee to the Kentucky Commission on Employment of the Handicapped, the Advisory Council on Mental Retardation, the Developmental Disabilities Services Act Advisory Council, the Kentucky Commission on Alcoholism and Drug Problems, the Commission on Aging, the Advisory Committee on Aging, the Commission on Handicapped Children, the Commission on Children and Youth, the State Board of Health, the Radiation Operators' Advisory Committee, the Advisory Council for Medical Assistance, [the Water and Sewage Plant Operators' Licensing Board,] the Comprehensive

Health Planning Council, the Board of the Bureau for Veterans Affairs, the Kentucky Drug Formulary Council, and the Kentucky Certificate of Need and Licensure Board, as they relate to the functions transferred in whole or in part by 1974 Acts ch. 74, or members thereof are referred to or designated in any law, regulation, contract, or order pertaining to the functions, powers, obligations, and duties vested in the Citizens' Commission for Human Resources, the Institute for Aging, the Institute for Children, the Council for Health Services, the Council for Social Insurance, the Council for Manpower Services, the Council for Social Services, the Advisory Council for Medical Assistance, [the Water and Sewage Plant Operators' Board,] the Comprehensive Health Planning Commission, the Advisory Board for Veterans Affairs, the Kentucky Drug Formulary Council, and the Kentucky Certificate of Need and Licensure Board, in accordance with 1974 Acts ch. 74, such references or designations shall be deemed to refer to the Citizens' Commission for Human Resources, the Institute for Aging, the Institute for Children, the Council for Health Services, the Council for Social Insurance, the Council for Manpower Services, the Council for Social Services, the Advisory Council on Medical Assistance, [the Water and Sewage Plant Operators' Licensing Board,] the Comprehensive Health Planning Council, the Advisory Board for Veterans Affairs, the Kentucky Drug Formulary Council, and the Kentucky Certificate of Need and Licensure Board, or the Department for Human Resources, or the Secretary for Human Resources, as may be appropriate.

Section 41. KRS 194.260 is amended to read as follows:

Any business, litigation, or other matters undertaken or commenced by or against the Kidney Disease Advisory Council, the Family Planning Committee, the Tuberculosis Commission, the Kentucky Manpower Commission, the Kentucky Advisory Committee on Day Care, the Kentucky Children's Advisory Council, the State Advisory Committee for Public Assistance, the Kentucky Commission on Employment of the Handicapped, the Advisory Committee to the Kentucky Commission on Employment of the Handicapped, the Advisory Council on Mental Retardation, the Developmental Disabilities Act Advisory Council, the Kentucky Commission on Alcoholism and Drug Problems, the Commission on Aging, the Advisory Committee on Aging, the Commission on Handicapped Children, the Commission on Children and Youth, the State Board of Health, the Radiation Operators' Advisory Committee, the Advisory Council for Medical Assistance, [the Water and Sewage Plant Operators' Licensing Board,] the Comprehensive Health Planning Council, the Board of the Bureau for Veterans Affairs, the Kentucky Drug Formulary Council, and the Kentucky Certificate of Need and Licensure Board and still pending on June 21, 1974, shall be completed and conducted by the Department.

Section 42. KRS 211.180 is amended to read as follows:

The department shall enforce the rules and regulations adopted by the secretary for human resources for the regulation and control of the matters set out below and shall formulate, promote, establish and execute policies, plans and programs relating to all matters of public health, including but not limited to the following matters:

(1) Detection, prevention, and control of communicable diseases, chronic and degenerative diseases, dental diseases and abnormalities, occupational diseases and health hazards peculiar to industry, home accidents and health hazards, animal diseases which are transmissible to man, and such other diseases and health hazards as may be controlled;

(2) The control of insects, rodents and other vectors of disease; [the proper disposal of garbage, waste and other refuse; the safe installation and operation of plumbing and plumbing fixtures;] the safe handling of food and food products; the safety of cosmetics; the control of narcotics, barbiturates and other drugs as provided by law; [the purification of water for public and semipublic use; the proper construction and operation of public water purification plants and distribution systems, swimming pools;] the sanitation of schools, industrial establishments and other public and semipublic buildings; the sanitation of state and county fairs and other similar public gatherings; the sanitation of public and semipublic recreational areas; the sanitation of public rest rooms, trailer courts, hotels, tourist courts, and other establishments furnishing public sleeping accommodations; the review, approval or disapproval of plans for construction, modification or extension of food-handling establishments [, water purification and distribution systems, swimming pools, and such other establishments, systems, plants and places as are designated by the secretary for human resources]; the licensure of hospitals; and the control of such other factors, *not assigned by law to another agency,* as may be necessary to insure a safe and sanitary environment;

(3) Protection and improvement of the health of expectant mothers, infants, preschool and school age children;

(4) The practice of midwifery, including the issuance of permits to and supervision of women who practice midwifery;

(5) Protection and improvement of the health of the people through better nutrition.

Section 43. KRS 223.010 is amended to read as follows:

As used in *KRS 223.020 to 223.080* [this chapter] unless the context requires otherwise:

(1) "Department" means the Department for Human Resources;

(2) "Registered sanitarian" means a person trained in the field of public health sanitation who has qualified for registration in accordance with the provisions of this chapter.

(3) "Secretary" means the Secretary for Human Resources.

Section 44. KRS 223.160 is amended to read as follows:

It is the intent of KRS 223.160 to 223.220 and 223.991 that every operator in responsible charge of a water treatment plant or water distribution system be required to hold a valid and effective certificate of competency issued by the [state] department for *natural resources and environmental protection* [Human Resources] in a class equal to or higher than the class of the particular treatment plant or distribution system where he is currently employed in order to protect the public health. Operators other than those in responsible charge of such facilities shall also be eligible to apply for certification.

Section 45. KRS 223.170 is amended to read as follows:

The department for *natural resources and environmental protection* [human resources] shall certify persons as to their qualifications to supervise successfully the operation of water treatment plants or water distribution systems after considering the recommendations of a board of certification which shall be appointed by the secretary for *natural resources and environmental protection* [human resources] or his designee. The board shall consist of the following: two (2) members who are currently employed as waterworks operators holding valid certificates; one (1) member employed by a municipality who holds the position of either city manager, city engineer, director of public works, or the equivalent thereof; one (1) member who is a faculty member of a college, university, or professional school whose major field is related to water supply; and one (1) ex officio member representing the [state] department *for natural resources and environmental protection* [of health]. Board members shall serve for a four year term or until their successors are appointed and qualify. The department for *natural resources and environmental protection* [human resources] representative shall serve as executive secretary and treasurer of the board and be responsible for maintaining records. The members of the board shall serve without compensation, but may be reimbursed for all actual and necessary expenses incurred while discharging their official duties.

Section 46. KRS 223.180 is amended to read as follows:

The department for *natural resources and environmental protection* [human resources] shall classify all water treatment plants and water distribution systems with due regard to size, type, physical conditions affecting such treatment plants and distribution systems, and according to the skill, knowledge and experience that the operator must have to supervise successfully the operation of such water treatment plants and water distribution systems so as to protect the public health.

Section 47. KRS 223.190 is amended to read as follows:

All water treatment plants and water distribution systems, whether publicly or privately owned, shall be under the supervision of an operator whose competency is certified to by the department for *natural resources and environmental protection* [human resources] in a grade corresponding to the classification of the water supply system to be supervised. All operators holding valid and effective certificates issued under existing regulations of the state board of health on June 16, 1966 may, within the discretion of the department for *natural resources and environmental protection* [human resources], be issued new certificates without examination for any appropriate new classifications that may be established by the regulations adopted hereunder or such certificates may be continued in effect.

Section 48. KRS 223.200 is amended to read as follows:

[(1)] The secretary for *natural resources and environmental protection* [human resources], with the advice of the board of certification, shall adopt rules and regulations as are reasonably necessary to carry out the intent of KRS 223.160 to 223.220 and 223.991. The rules and regulations may include, but are not limited to, provisions establishing standards for classification of water treatment plants and water distribution systems, provisions establishing qualifications of applicants and procedures for examination of candidates, membership, and duties of the board of certification, provisions relating to the renewal, cancellation or revocation of certificates, including the specifications of the grounds therefor, and such other provisions as are necessary for the administration of KRS 223.160 to 223.220 and 223.991.

[(2) All rules and regulations heretofore adopted by the state board of health relating to the certification of operators of water treatment plants and water distribution systems and on file with the Legislative Research Commission on June 16, 1966 are hereby declared to be in full force and effect until otherwise amended or repealed.]

Section 49. KRS 223.210 is amended to read as follows:

It shall be unlawful for any person, firm, or corporation (municipal or private), to operate a water treatment plant or water distribution system unless the competency of the operator who is in direct responsible charge is duly certified to by the department for *natural resources and environmental protection* [human resources] under the provisions of KRS 223.160 to 223.220 and 223.991. It shall be unlawful for any person to perform the duties of an operator, in direct responsible charge, without being duly certified under the provisions of KRS 223.160 to 223.220 and 223.991. The department for *natural resources and environmental protection* [human resources] may, however, issue provisional certificates for emergency situations.

Section 50. KRS 223.220 is amended to read as follows:

The *department for natural resources and environmental protection* [state board of health] is authorized to fix a reasonable schedule of fees and charges by regulation to be paid by applicants for examinations, certificates, and renewal certificates. All such fees and charges and other moneys collected by the [state] department *for natural resources and environmental protection* [of health] under the provisions of KRS 223.160 to 223.220 and 223.991 or the rules and regulations of the *department* [state board of health] shall be paid into the state treasury and credited to a trust and agency fund to be used by the [state] department *for natural resources and environmental protection* [of health] in carrying out the provisions of KRS 223.160 to 223.220 and 223.991.

Section 51. KRS 247.413 is amended to read as follows:

There is hereby established the Governor's Council on Agriculture which shall be attached to the *development cabinet* [Governor's office] for administrative purposes. The object of the council shall be the development and promotion of a broadly conceived statewide agricultural and agri-business program, including the distribution and promotion of agricultural products, which will stimulate the acceleration of the state's agricultural economy by endeavoring to improve all phases thereof.

Section 52. KRS 247.417 is amended to read as follows:

(1) The membership of the council shall consist of the Governor, the Lieutenant Governor, the Commissioner of Agriculture, *the secretary of the development cabinet,* the Dean of the College of Agriculture and Home Economics of the University of Kentucky, and fifteen citizen members, a majority of whom shall be full-time farmers, appointed by the Governor. All members shall serve at the Governor's will during his incumbency, and until each member's successor is appointed.

(2) The Governor shall serve as chairman of the council. The council may elect by majority vote a vice-chairman and such officers of the council as may be deemed necessary.

(3) Citizen members of the council shall receive a compensation of $25 per day for each day of attendance at meetings of the council, and shall be reimbursed by the *secretary's* [Governor's] office for necessary and actual expenses in accordance with the provisions of KRS chapters 44 and 45.

(4) The council shall meet at the call of the chairman, but not less often than four times during each calendar year. A majority of the members appointed to the council shall constitute a quorum.

Section 53. KRS 247.427 is amended to read as follows:

(1) There is hereby established the Kentucky Farmers Advocate's Office which shall be attached to the *development cabinet* [Governor's office] for administrative purposes, and which shall be headed by an executive director appointed by the Governor. The executive director shall be the chief administrative officer of the council. Such other staff shall be appointed as is necessary to assist in carrying out the purposes of this section.

(2) The executive director and any other staff members shall be entitled to compensation under KRS chapter 18, and may be reimbursed for necessary and actual expenses in accordance with the provisions of KRS chapters 44 and 45.

(3) The duties and responsibilities of the Kentucky Farmers Advocate's Office shall be to:

(a) Keep the Governor and the council informed on current agricultural and agri-business developments and problems;

(b) Carry out such directions as the Governor and the council may issue;

(c) Advocate and promote programs for the advancement and promotion of agriculture and agri-business;

(d) Make the facilities of the office available to farmers, and to serve as a forum to which farmers may direct questions and problems;

(e) Serve farmers as a source of information on federal and state agricultural programs; and

(f) Make available to farmers such other information and services as the facilities of the office afford.

(4) The executive director of the council shall maintain correct and complete records of all the council's transactions and proceedings which shall constitute public records open to inspection at reasonable times.

Section 54. KRS 250.482 is amended to read as follows:

As used in KRS 250.483 to 250.488:

(1) "Department" means the department of insurance;

(2) "Division" means the division of fire prevention in the department of insurance.

(3) "Anhydrous [The term "anhydrous] ammonia" [as used in KRS 250.482 to 250.488] refers to the compound formed by the combination of the two (2) gaseous elements, nitrogen and hydrogen, in the proportion of one (1) part nitrogen to three (3) parts of hydrogen by volume. Anhydrous ammonia is ammonia gas in compressed or liquefied form, and is not aqueous ammonia.

Section 55. KRS 250.483 is amended to read as follows:

The *division of fire prevention in the department of insurance* [department] shall make, promulgate and enforce regulations setting forth minimum general standards covering the design, construction, location, installation and operation of equipment for storing, handling, transporting by tank truck, tank trailer, and utilizing anhydrous ammonia. Said regulations shall be such as are reasonably necessary for the protection and safety of the public and persons using such materials, and shall be in substantial conformity with the generally accepted standards of safety concerning the same subject matter. Such regulations shall be adopted by the *division* [department] after a public hearing thereon. Regulations in substantial conformity with the published standards of the agricultural ammonia institute and the compressed gas association for the design, installation and construction of containers and equipment for the storage and handling of anhydrous ammonia shall be deemed to be in substantial conformity with the generally accepted standards of safety concerning the same subject matter.

Section 56. KRS 250.484 is amended to read as follows:

All equipment shall be installed and maintained in a safe operating condition and in conformity with the rules and regulations of the *division* [department] adopted under KRS 250.483.

Section 57. KRS 250.486 is amended to read as follows:

No person, firm or corporation other than the owner of the facility and those authorized by the owner so to do, shall sell, fill, refill, deliver or permit to be delivered, or use in any manner any anhydrous ammonia container or receptacle for any gas, compound, for any other purpose whatsoever. Any wholesaler, dealer, or handler of anyhydrous ammonia or pressure liquid fertilizers that have a vapor pressure in excess of fifty (50) pounds at one hundred (100) degrees Fahrenheit shall register annually with the *division* [department], and shall pay an annual license fee based on the volume of the previous year's business. The license fee shall be at least thirty-five dollars ($35.00); operators who have handled more than two hundred and fifty (250) tons during the previous year shall pay an additional amount equal to fifteen cents (15¢) for each ton handled in excess of two hundred and fifty (250). The application for license shall be accompanied by an affidavit stating the applicant's volume of business. The *division* [department] or its representative shall have the privilege of checking the validity of the information contained in the affidavit.

Section 58. KRS 250.488 is amended to read as follows:

In addition to the penalties provided in KRS 250.991, any person, firm or corporation who shall violate or remain in violation of any of the provisions of KRS 250.482 to 250.488 or of any rule or regulation promulgated thereon may be directed and ordered by notice in writing setting forth the facts relating to such violation to correct same. Such notice shall be served personally upon said person or mailed by certified mail, return receipt requested or by registered mail to the principal office of said person, firm or corporation, or if an individual or individuals, to his or their residence. If such order is not complied with and such violation not corrected within twenty (20) days of service of such order, the *division* [department] may file in the circuit court of the county of residence if a person, or place of business if a corporation where such violation occurs, a complaint setting up the facts and praying an injunction. The court upon hearing shall determine the case, and issue proper orders. All orders of the *division* [department], issued after a hearing, shall be prima facie evidence of the truth of the matters involved, and may be appealed to circuit court as in other cases.

Section 59. KRS 287.011 is amended to read as follows:

(1) There is created a department of banking and securities, which constitutes a department of the state government within the meaning of KRS chapter 12. The department shall be headed by a commissioner of banking and securities, who shall be the executive head of the department and shall be charged with the administration of the department.

(2) The department of banking and securities shall exercise all administrative functions of the state in relation to the regulation, supervision, chartering and licensing of banks, trust companies, savings and loan associations, petty loan companies, investment and industrial loan companies, and credit unions, and in relation to the regulation of securities. For administrative purposes the department may be divided into sections for each class of financial institution under jurisdiction of the department, and there shall be within the department, for regulation of securities, a division of securities, headed by a director who has had at least four (4) years' successful business experience *and a division of banking to be headed by a director.*

Section 60. KRS 318.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Department" means Department for *natural resources and environmental protection* [Human Resources];

(2) "Journeyman plumber" means a person who engages or offers to engage, either as an occupation or otherwise, in the construction, installation, alteration, maintenance, repair, remodeling or removal, and replacement of plumbing under the supervision, direction and responsibility of a master plumber;

(3) "Master plumber" means a person who assumes responsible charge, supervision or direction of journeyman plumbers, plumbers' apprentices and other persons in the construction, installation or alteration of plumbing or who engages in, offers to engage in or advertises or otherwise represents that he is permitted or qualified to engage in the design, planning, superintending, contracting for or responsible charge of plumbing;

(4) "Plumbing" means the art of installing in buildings the pipes for distributing the water supply, the fixtures for using water and drainage pipes for removing waste water and sewage, together with fittings, appurtenances, and appliances of various kinds, all within or adjacent to the building. It shall include:

(a) The water service pipe which forms the connection between the property line and the building other than piping serving fire-fighting equipment;

(b) Private water supply systems;

(c) House sewers which convey the waste water and sewage from the building to the property line or other points of disposal but not including sewers located between manholes and sewers extending five (5) feet from a main or manhole on private property; and

(d) Storm sewers and rain water piping located within a building to a point two (2) feet outside of the building and private sewage disposal systems other than those which have a treated affluent.

(5) "Public buildings" means any building intended for public use or built with public funds and includes but is not limited to the following: schools, industrial establishments, housing projects, restaurants, food-handling establishments, private clubs, theaters including drive-ins, trailer coach parks, camping areas, hospitals, nursing homes, hotels, motels, tourist courts, rooming houses, boarding houses, and other establishments furnishing public sleeping accommodations;

(6) "Maintenance man" means a person employed to maintain and keep plumbing in good repair;

(7) "Apprentice" means a person in the process of learning the plumbing trade who assists and is under the personal supervision of a licensed master or licensed journeyman plumber;

(8) "Farmstead" means a farm dwelling together with other farm buildings and structures incident to the operation and maintenance of the farm located outside the corporate limits of a municipality and not connected to a public water supply.

Section 61. KRS 318.015 is amended to read as follows:

(1) This chapter applies and shall be in full force and effect in all counties of the commonwealth.

(2) The state plumbing code promulgated by the *department* [board] under the provisions of this chapter applies and shall be in full force and effect for all public buildings regardless of location in the commonwealth.

(3) This chapter shall not apply to farmsteads.

Section 62. KRS 318.054 is amended to read as follows:

(1) Every master and journeyman plumber's license issued by the department shall expire on June 30 of each year following the date of issuance unless sooner canceled or revoked.

(2) On or before June 1 of each year, the department shall send notices to all licensed master and journeyman plumbers in this state, at their last known addresses, advising them that the annual license renewal fee is due on July 1. The annual license renewal fee shall be a reasonable fee set by regulation of the *department* [board]. The fee for the renewal of a master plumber's license shall exceed the fee charged for a journeyman plumber's license.

(3) Any master or journeyman plumber who fails to renew his license on or before July 1 of each year may have his license renewed upon payment of the required renewal fee and a revival fee. The revival fee for a master plumber shall be five dollars ($5.00) and for a journeyman plumber three dollars ($3.00). If the renewal and revival fees are not paid by January 1 of the following year, such licenses shall be automatically canceled

by operation of law for nonpayment; Provided, however, That such licenses may be reinstated upon payment of all delinquent renewal fees plus a revival fee of ten dollars ($10.00) for a master plumber and six dollars ($6.00) for a journeyman plumber. Upon presentation of proper evidence, the department may waive payment of any renewal or revival fee specified herein for persons serving on active duty in the armed forces of the United States.

Section 63. KRS 318.064 is amended to read as follows:

The department may revoke or suspend any plumber's license issued by it upon proof that the licensee has:

(1) Knowingly violated the provisions of this chapter or the Kentucky state plumbing code, or the rules and regulations of the *department* [board];

(2) Practiced fraud or deception in applying for or obtaining a license;

(3) Is incompetent to perform services as a licensed master plumber or a licensed journeyman plumber;

(4) Permitted his license to be used directly or indirectly by another to obtain or perform plumbing work or services; or

(5) Is guilty of such other unprofessional or dishonorable conduct of a character likely to deceive or defraud the public.

Section 64. KRS 318.066 is amended to read as follows:

(1) No license shall be suspended or revoked by the department unless a hearing has been conducted or an opportunity afforded therefor, at which the holder of the license shall have the right to be present in person or by counsel and to present evidence and be heard in his own behalf. The holder of the license shall be given written notice of the hearing at least thirty (30) days prior to the date thereof. The notice shall state the time and place of the hearing and set forth the ground or grounds for the suspension or revocation in sufficient detail to apprise the holder of the license of the charges preferred against him. Upon failure of the holder of the license to respond to the complaint at or before the time of the hearing thereon, the allegations set forth in the complaint shall be taken by the department as confessed. Proceedings at such hearings shall be in accordance with the rules and regulations of the *department* [board].

(2) The department shall appoint and provide for a hearing officer to conduct such hearings. The hearing officer shall have authority to issue subpoenas for the attendance of witnesses and the production of papers and records, administer oaths, schedule hearings and otherwise act in the name and on behalf of the department, but shall not have authority to suspend or revoke licenses. He shall cause to be prepared and shall certify to the department a complete written transcript of the record of each hearing, including all pleas, motions and other papers relating thereto, for consideration and decision by the department. An order of the department suspending or revoking a license shall be effective thirty (30) days after notice of the entry of such order is given the holder thereof.

(3) Each notice required by this section to be given a licensee shall be served by forwarding same by certified mail, return receipt requested or by registered mail, postage prepaid, to the holder at his address as it appears in the records of the department.

(4) A licensee aggrieved by an order of the department suspending or revoking a license may, within thirty (30) days after notice thereof, appeal therefrom to the *department* [board] in the manner provided by KRS 311.595. The decision of the *department* [board] shall be based on the transcript of evidence prepared by the hearing officer.

(5) A person aggrieved by an order of the *department* [board] suspending or revoking a license may, within thirty (30) days after notice of such suspension or revocation, appeal therefrom to the circuit court of the county in which the principal office of the department is located by filing a statement of appeal therein together with an appeal bond with good and sufficient surety to secure the payment of any costs charged against him on the appeal. The cost of preparing and certifying the record shall be paid to the department by the appellant and taxed as costs in the action to be paid as directed by the court upon final determination of the action. The appeal shall be determined by the court upon the certified record and no new or additional evidence shall be heard or considered by the court.

(6) Either party aggrieved by a final order entered by the circuit court may appeal to the Court of Appeals as in a civil action.

Section 65. KRS 318.071 is amended to read as follows:

(1) There is hereby created a state plumbing code committee which shall be established within the [state] department *for natural resources and environmental protection* [of health] for administrative purposes. The state plumbing code committee shall consist of seven (7) members, one (1) of whom shall be a builder member of the Home Builders Association of Kentucky, one (1) of whom shall be a member of the Association of General Contractors, one (1) of whom shall be a member of the Kentucky Master Plumbers Association, one (1) of whom shall be a member of the Kentucky Society of Professional Engineers (who shall have a

background in sanitary engineering), one (1) of whom shall be a member of the American Institute of Architects, one (1) of whom shall be a member of the United Association of Journeyman Plumbers, and one (1) of whom shall be a member of the Mechanical Contractors Association. Each member of the state plumbing code committee shall receive no compensation but shall be reimbursed for all necessary expenses. The members of the committee shall be appointed by the governor from lists of three (3) names submitted by the above mentioned organizations.

(2) Each member shall be appointed for and hold office a term of two (2) years or until his successor is appointed and qualified.

(3) At all times in the filling of vacancies of membership on the committee the balance of representation set out in subsection (1) shall be maintained.

Section 66. KRS 318.074 is amended to read as follows:

The committee shall elect from its members one (1) to serve as chairman, one (1) as vice-chairman, and the *secretary of the department for natural resources and environmental protection* [commissioner of the state department of health] shall serve as ex-officio member of the *committee* [board] (without a vote) and secretary. The *committee* [board] shall meet at least quarterly and upon special call by the chairman.

Section 67. KRS 318.077 is amended to read as follows:

The committee shall hold hearings, upon adequate notice to affected parties, before the enactment of any rule, regulation or amendment to the code, specifying the matters to be considered thereat. Any person aggrieved by any such rule, regulation or amendment approved by the *department* [state board of health], within 30 days after such action has become final, may appeal therefrom to the circuit court. For the purposes of this section, "persons aggrieved" shall include any person directly or indirectly injured or threatened with injury on account of any such regulation, rule or amendment, whether or not such person was a party to the proceedings out of which the order, rule, regulation or amendment arose.

Section 68. KRS 318.080 is amended to read as follows:

(1) In order to conduct examinations for persons to qualify as licensed master plumbers or journeyman plumbers, the department shall appoint as examiners the following persons to a state plumbers examining committee: An employe of the Department [for Human Resources] and three (3) other persons who shall be licensed either as master or journeyman plumbers. The Secretary for *the department for natural resources and environmental protection* [Human Resources] shall be an ex-officio examiner and permanent secretary of the committee. With the exception of the issuance of any order involving the revocation, suspension or cancellation of a master or journeyman plumber's license, the Secretary [for Human Resources] may delegate to a subordinate employe in the department the power to be present and participate, including the right to vote, as his representative at any meeting, hearing or other proceeding of the state plumbers examining committee. Plumber examiners shall serve at the pleasure of the department.

(2) The department shall appoint assistant plumber examiners who shall be qualified licensed master or journeyman plumbers who shall serve at the pleasure of the department. Assistant plumber examiners shall perform such duties as are delegated to them by the state plumbers examining committee.

(3) Plumber examiners and assistant plumber examiners shall receive no compensation for their services but shall be reimbursed for their necessary traveling expenses.

Section 69. KRS 318.100 is amended to read as follows:

No person shall advertise or hold himself out as a licensed master or licensed journeyman plumber within the commonwealth of Kentucky unless he is holder of a license from the [state] department [for human resources] in accordance with the provisions of this chapter.

Section 70. KRS 318.130 is amended to read as follows:

[(1)] In order to administer this chapter, the state plumbing code committee shall promulgate and thereafter from time to time may amend a code to be known as the Kentucky state plumbing code, regulating the construction, installation and alteration of plumbing and plumbing fixtures and appliances, house sewers or private sewage disposal systems and private water supplies, methods and materials to be used therein within this state, using as a minimum standard the basic principles of the national plumbing code coordinating committee, as evidenced by that committee's final report of 1951 with variations thereof or additions thereto as the *committee* [board] considers are warranted by local, climatic or other conditions. The code may also designate the number of plumbing fixtures for public buildings. The state plumbing code committee may adopt any other reasonable rule or regulation to administer this chapter. No rules or regulations so approved by the committee shall become effective except upon adoption by the *department* [state board of health].

[(2) The board may continue in effect any plumbing code duly promulgated by them on file with the Legislative Research Commission in Frankfort, Kentucky, on June 16, 1966.]

Section 71. KRS 318.134 is amended to read as follows:

(1) No person, firm or corporation shall:

(a) Construct, install, or alter, or cause to be constructed, installed, or altered, any plumbing without first having procured a plumbing installation permit therefor from the department;

(b) Use or continue to use, or permit the use or continued use of, any plumbing constructed, installed, or altered under a plumbing installation permit issued therefor where the department, through a duly authorized inspector, employe or agent, finds that the plumbing was not constructed, installed or altered in accordance with such permit and the Kentucky state plumbing code.

(2) All applications for plumbing installation permits shall be accompanied by plans and specifications of the proposed plumbing installation, location and construction of water supply system, type of sewage disposal, location of septic tank, drain field or pit to be used. No plumbing installation permit shall be issued until plans of the sewage disposal have been submitted to and approved by the department together with the results of an approved percolation test.

(3) The *department* [board] shall fix a reasonable schedule of fees and charges to be paid for plumbing installation permits and the necessary inspections incident thereto. The *department* [board] shall also fix a reasonable schedule of fees and charges to be paid for necessary inspections of the construction, installation or alteration of plumbing in public buildings.

Section 72. KRS 318.136 is amended to read as follows:

All license fees, permit and inspection fees and charges, and other moneys collected by the department, under the provisions of this chapter and the rules and regulations of the *department* [board] adopted hereunder, shall be paid into the state treasury and credited to a trust and agency fund to be used by the department in carrying out the provisions of this chapter. No part of this fund shall revert to the general fund of the commonwealth. All moneys held in a trust and agency fund or other fund to the credit of the department for the administration and enforcement of this chapter on June 16, 1960, are hereby transferred to the trust and agency fund herein created.

Section 73. KRS 318.140 is amended to read as follows:

(1) Any city of the first, second, or third class may, by ordinance, enact a plumbing code, not less stringent in its provisions than the Kentucky state plumbing code, regulating the construction, installation, or alteration of plumbing within such city, providing for the issuance of plumbing installation permits and fixing permit and inspection fees. The department may authorize any such city to administer, carry out, and enforce the Kentucky state plumbing code and the rules and regulations of the *department* [board] relating thereto and to issue permits and make inspections thereunder within such city, in which event a permit issued under the provisions of the city plumbing code ordinance shall be deemed a permit issued by the department; Provided, however, That inspectors of the department shall have concurrent jurisdiction with city plumbing inspectors in the enforcement in such cities of the Kentucky state plumbing code.

(2) Any city enacting a plumbing code ordinance may appoint and fix the compensation of city plumbing inspectors. No person shall be eligible for appointment as a city plumbing inspector unless he has at least eight (8) years' experience as a master or journeyman plumber. At the time of his appointment he shall be licensed in accordance with the provisions of this chapter.

(3) Nothing contained in this chapter shall be construed as prohibiting a city from collecting occupational license fees from persons, firms or corporations engaged in the plumbing business.

Section 74. KRS 318.160 is amended to read as follows:

Except as otherwise provided by law or by regulation of the *department* [board], no person shall construct, install, or extensively alter any plumbing, sewerage or water supply system of any public building or establishment without having first obtained the approval of the department in writing. Detailed plans and specifications of the proposed facility showing the plumbing system, sewage disposal system, and water supply system shall be submitted to the department prior to the construction or alteration of the facility. In the event no public sewer is available, the plan shall include the proposed type of sewage disposal system. In the event a sewage subsoil drainage system is used, a complete soil study, including among other pertinent data, the results of percolation tests shall be submitted. Such percolation tests shall be conducted in accordance with the standards adopted by the department. All plans and specifications shall be submitted in triplicate to the department. The department shall notify the applicant in writing of the approval or disapproval of the plans. The construction, installation or alteration shall be done in accordance with the approved plans.

Section 75. KRS 318.180 is amended to read as follows:

(1) Notwithstanding the existence or pursuit of any other remedy (civil or criminal) the department, or its officers, agents, or inspectors, are hereby authorized to institute and maintain actions to restrain and enjoin

any violation of this chapter, the state plumbing code, or the rules and regulations of the *department* [board] relating thereto.

(2) City, county and commonwealth's attorneys, and the attorney general, shall within their respective jurisdictions represent the department, its officers, agents, and inspectors, in the enforcement of the provisions of this chapter, the state plumbing code, and the rules and regulations of the *department* [board] relating thereto, but when the department deems it necessary, it may employ, at its discretion, special attorneys to assist the department, or its officers, agents, or inspectors, and may pay reasonable compensation, fees and other costs from any unexpended plumbing funds.

Section 76. KRS 318.190 is amended to read as follows:

The Circuit Court where the violation occurs shall have jurisdiction and venue in all civil, criminal, and injunctive actions instituted by the department [for human resources] for the enforcement of the provisions of KRS chapter 318 and the state plumbing code and the orders issued thereunder and the rules and regulations of the secretary for *natural resources and environmental protection* [human resources].

Section 77. KRS 336.510 is amended to read as follows:

As used in KRS 336.520 to 336.680, unless the context otherwise requires:

(1) "Elevator" means all the machinery, construction, apparatus, and equipment used in raising and lowering a car, cage, or platform vertically between permanent rails or guides, and includes all elevators, power dumbwaiters, escalators, gravity elevators, and other lifting or lowering apparatus permanently installed between rails or guides, but does not include hand operated dumbwaiters, manlifts of the platform type with a platform area not exceeding nine hundred square inches, construction hoists, or other similar temporary lifting or lowering apparatus.

(2) "Passenger elevator" means an elevator that is designed to carry persons to its contract capacity.

(3) "Freight elevator" means an elevator normally used for carrying freight and on which only the operator and employes in the pursuit of their duties, by the permission of the employer, are allowed to ride.

(4) "General inspector" means a state inspector examined and hired to inspect elevators for the state labor department.

(5) "Special inspector" means an inspector examined and certified by the *department* [chief of the division of elevator inspection] to inspect elevators in the state.

(6) "Inspector" means either a general or special inspector.

(7) *"Department" means the department of labor.* ["Division" means the division of elevator inspection.]

(8) "Certificate of operation" is a certificate issued by the *department* [division of elevator inspection] authorizing the operation of an elevator which must be conspicuously posted on the elevator at all times.

Section 78. KRS 336.530 is amended to read as follows:

(1) *The* [There is hereby established inside the] department of labor [a "division of elevator inspection" which] shall administer all aspects of *the* state elevator inspection *program.*

(2) The *program shall be directed by* [chief of the division of elevator inspection shall be] a person with at least five years' experience in the construction, installation, maintenance, and repair of elevators and their appurtenances.

(3) The [chief, with the consent of the] commissioner of labor [,] may appoint and hire from the holders of certificates of competency, no more than five general inspectors of elevators.

Section 79. KRS 336.550 is amended to read as follows:

A certificate to serve as an inspector may be suspended or revoked by the *department* [chief of the division of elevator inspection] for the incompetence or untrustworthiness of the holder thereof, or for the falsification of any matter or statement contained in his application or in a report of any inspection.

Section 80. KRS 336.590 is amended to read as follows:

The owner or user of any elevator shall register with the *department* [division of elevator inspection] every elevator operated by him, giving the type, capacity, and description, name of manufacturer, and purpose for which each is used. Such registration shall be made on a form to be furnished by the *department* [division]

.

Section 81. KRS 336.610 is amended to read as follows:

(1) Every inspector shall forward to the *department* [division of elevator inspection] a full report of each inspection made of any elevator, showing the exact condition of the said elevator, and said inspector shall leave a copy of said report at the elevator on the day the inspection is completed.

(2) If any elevator requires certain changes or repairs to make it reasonably safe to operate, such recommendations shall be made by the inspector upon his report and a copy of such report as approved by the

department [chief of the division of elevator inspection] shall be given to the owner or operator of such elevator, and unless appealed, upon compliance therewith, and upon the payment of the fees required by law, the *department* [chief] shall issue a certificate of operation for a capacity not to exceed that named in the said report of inspection, which certificate shall be valid for one year after the date of inspection.

(3) If construction plans or an application of specifications is not approved, the *department* [chief] shall state in writing the necessary changes to obtain approval and the owner or operator shall be given a copy thereof, and unless appealed, upon compliance therewith, the *department* [chief] shall approve such plans or specifications and issue a permit for construction.

(4) Such owner or operator, within twenty days from receipt of the copy of such report or statement of changes in plans or specifications, may make written application to the *department* [division], upon forms to be furnished by the *department* [division] for a hearing on the report or the statement regarding changes in plans or specifications as to whether the elevator in question is reasonably safe, or whether the elevator if constructed in accordance with such plans and specifications would be reasonably safe. The *department* [division] shall promptly consider such application and proceedings consistent with the provisions of this section.

(5) If it appears from the evidence that said elevator will be reasonably safe to operate without such changes or repairs as shown in such report or by making only a part or all thereof, or if none or only a part of all the changes in the plans or specifications are found necessary to make the elevator reasonably safe, the *department* [division] shall make its finding and order accordingly. If such finding and order requires changes or repairs to be made in the elevator or changes in the plans or specifications, the *department* [chief] shall upon the payment of the required fees, issue a certificate of operation when such order has been executed, or issue *its* [his] approval of the plans or specifications. If the finding and order of the *department* [division] has been affirmed or modified by appeal, on the grounds of reasonable safety considered by the *department* [division], then the *department* [chief] shall, upon compliance with such order, and the payment of required fees, issue such certificate of operation or issue *its* [his] approval of the plans and specifications but, if such finding and order of the *department* [division] has been vacated such certificate of operation, upon the payment of fees or such approval of plans and specifications shall be issued forthwith. No elevator shall be operated after being inspected without having such certificate of operation conspicuously posted thereon, except pending a hearing on the issuance thereof.

Section 82. KRS 336.640 is amended to read as follows:

No certificate of operation for any elevator shall be issued until such elevator has been inspected and the report thereof filed with the *department* [chief of the division of elevator inspection]. Such certificate of operation, when issued, shall bear the date of inspection, and shall be renewed as of the date of the subsequent inspection, provided such inspection is made at least one year after the issuance of such certificate. If such inspection is made during the year such certificate is in force, the renewal date shall be one year from the date of the certificate being renewed and the renewal certificate shall show the date of inspection.

Section 83. KRS 336.650 is amended to read as follows:

Before any new installation of an elevator of permanent nature shall be erected or before any existing elevator is removed to a different location, an application of specifications in duplicate shall be submitted to the *department* [division of elevator inspection] giving such information concerning the construction, installation, and operation of said elevator as the *department* [division] may require on forms to be furnished by *the department* [said division], together with complete construction plans in duplicate. In all cases where any changes or repairs are made which alter its construction or classification, grade or rated lifting capacity, except when made pursuant to a report of an inspector, an application of specifications in duplicate shall be submitted to the *department* [division], containing such information, for approval, except in those municipal corporations which maintain their own elevator inspection departments, in which event such specifications shall be submitted to the elevator department of the municipal corporation for its approval, and if approved, a permit for the erection or repair of such elevator shall be issued by the municipal corporation. Upon approval of such application and construction plans the *department* [chief of the division of elevator inspection] shall issue a permit for the erection or repair of such elevator. No new elevator shall be operated until completion in accordance with the approved plans and specifications, unless a temporary permit is granted by the *department* [division].

Section 84. KRS 336.660 is amended to read as follows:

(1) The fee for the initial certificate of operation for all elevators, insured and uninsured, shall be $10.00, and shall be paid to the *department* [chief of the division of elevator inspection] before the certificate is issued.

(2) The fee for each renewal of a certificate of operation shall be $5.00, and shall be paid to the *department* [chief] before the certificate is renewed. When an elevator is inspected by a general inspector, there shall be charged for each elevator a fee of $5.00 for each inspection.

(3) An additional fee of $10.00 shall be charged for each inspection by a general inspector made on request of the owner or user of the elevator, whether or not the required number of inspections of the elevator in question have already been made. The final inspection, before operation, of a permanent, new, or repaired elevator, shall be classed as a special inspection. Such final inspection shall be made by a general inspector, but the *department* [chief of the division of elevator inspection] may designate a special inspector of a municipal corporation to make such final inspection of any permanent elevator located in his municipal corporation.

Section 85. KRS 336.670 is amended to read as follows:

No person shall violate any law relative to the operation, construction, maintenance, and repair of elevators. All fines collected for a violation of this section shall be forwarded to the *department, which* [chief of the division of elevator inspection, who] shall pay the same into the state treasury to the credit of the general revenue fund.

Section 86. KRS 336.680 is amended to read as follows:

If the *department* [chief of the division of elevator inspection] or a general inspector of elevators finds that an elevator or a part thereof does not afford reasonable safety, the *department* [chief] or the general inspector may post a notice upon such elevator prohibiting further use of the elevator until the changes or alterations set forth in the notice have been made to the satisfaction of the *department* [chief] or the inspector. Said notice shall contain a statement that operators or passengers are subject to injury by its continued use, a description of the alteration or other change necessary to be made in order to secure safety of operation, date of such notice, name and signature of the *department* [chief] or inspector issuing the notice.

Section 87. KRS 338.041 is amended to read as follows:

(1) There is hereby created in the department of labor a program for occupational safety and health. This program shall consist of a division of occupational safety and health compliance and a division of education and training for occupational safety and health. This program shall administer all matters pertaining to occupational safety and occupational health and shall be under the supervision of an occupational safety and health coordinator.

(2) The department of labor may require the assistance of other state agencies and may enter into agreements with other state agencies and political subdivisions of the commonwealth for the administration of this chapter.

(3) The department of labor shall enter into an agreement with the public service commission, which shall serve as the state agency in the administration of this chapter for all matters relating to occupational safety and occupational health with respect to utilities as defined in KRS 278.010, and their employes.

(4) The Department of Labor *may* [shall] enter into an agreement with the department for human resources and other appropriate departments or agencies to conduct research, experiments, and demonstrations relating to occupational safety and health, including studies of psychological factors involved, and relating to innovative methods, techniques, and approaches for dealing with occupational safety and health problems in the administration of this chapter.

Section 88. KRS 345.120 is amended to read as follows:

(1) There is hereby created and established a state labor relations board to assist in resolving disputes between public employers and fire fighters or their labor organization which shall be composed of three members appointed by the governor, one for a term of two years, one for a term of three years, and one for a term of four years. The governor shall designate one member to serve as chairman of the board. Thereafter, upon the expiration of the term of any member, members shall be appointed for four-year terms by the governor.

(2) Each member of the board shall have been an elector in this state for at least one year next preceding his appointment. Any member may be removed by the governor for cause, shown in a public hearing after the accused has been given a copy of the charges made and has had an opportunity to answer such charges. The governor shall fill any vacancy by appointment for the unexpired term. No member shall receive a salary but each member shall be paid $50 and expenses for each day during which he is engaged in the duties of the board. The board is authorized to hold hearings at any place in this state. Any and all expenses incurred by the labor relations board shall be shared by all parties concerned in the dispute.

(3) The board shall appoint such employes as may be necessary to carry out the work of the board. All files, records and documents accumulated by the board shall be kept in offices provided by the board. All decisions shall be made by a majority of the board.

(4) To accomplish the objectives and to carry out the duties prescribed by this chapter, the board may subpoena witnesses, issue subpoenas to require the production of books, papers, records and documents which may be needed as evidence in any matter under inquiry, and may administer oaths and affirmations.

(5) In case of neglect or refusal to obey a subpoena issued to any person, the circuit court of the county in which the investigations or the public hearings are taking place, upon application by the board may issue an order requiring such person to appear before the board, any member or agent, to produce evidence or give testimony about the matter under investigation. A failure to obey such order may be punished by the court as a contempt.

(6) Any subpoena, notice of hearing or other process or notice of the board issued under the provisions of this chapter may be served personally, by certified mail, return receipt requested or by registered mail or by leaving a copy at the principal office or place of residence of the respondent required to be served. A return, made and verified by the individual making such service and setting forth the manner of such service is proof of service and a returned post-office receipt, when certified or registered mail is used, is proof of service. All process of any court to which application may be made under the provisions of this chapter may be served in the county wherein the persons required to be served reside or may be found.

(7) The board shall adopt, promulgate, amend or rescind such rules and regulations as it deems necessary and administratively feasible to carry out the provisions of this chapter. Public hearings shall be held by the board on any proposed rule or regulation of general applicability designed to implement, interpret or prescribe policy, procedure or practice requirements under the provisions of this chapter and on any proposed change in an existing rule or regulation. Reasonable notice shall be given prior to such hearings, which shall include the time, place and nature of such hearing and also the terms or substance of the proposed rule or regulation or the changes of such rule or regulation.

(8) The board shall be attached to the department of labor for administrative purposes.

Section 89. The General Assembly confirms the reorganization of agencies and statutory administrative departments effected by Executive Orders to the extent that such reorganizations are not otherwise confirmed by this Act, as follows:

(1) Department of Transportation and Department of Justice. Transferral of responsibility and authority for administration of the National Highway Safety Act of 1966 in Kentucky from the Department of Justice to the Department of Transportation, Office of the Secretary, Office of Transportation Safety Coordinator (Executive Orders 74-424 and 74-483).

(2) Department of Revenue. Internal reorganization of the Department of Revenue (Executive Order 74-648) by abolishment of the position of Executive Assistant, the Division of Property and Inheritance Tax, the Division of Records, and the Field Division and by organization of the Department to include, in addition to the Commissioner of Revenue, the following:

(a) Deputy Commissioner;
(b) Legal Staff;
(c) Research Staff;
(d) Management Services Division;
(e) Assistant Commissioner for Ad Valorem Tax to coordinate the functions of:
1. General Property Tax Division; and
2. State Assessment and Inheritance Tax Division.
(f) Assistant Commissioner for General Taxation to coordinate the functions of:
1. Income Tax Division;
2. Sales and Severance Tax Division;
3. Selective Excise Tax Division; and
4. Enforcement Division.
(g) Assistant Commissioner for Technical Services to coordinate the functions of:
1. Accounting Division; and
2. Data Processing Division.

(3) Creation of the Division of Security in the Kentucky Harness Racing Commission (Executive Order 75-156).

(4) Executive Department for Finance and Administration. Establishment of the Internal Audit Staff, headed by a Chief Internal Auditor, under and attached to the Department (Executive Order 75-545).

(5) Department of Education. Creation of the Division of Delinquency Prevention in the Bureau of Pupil Personnel Services (Executive Order 75-524) and creation of the Division of Title IV in the Office of Superintendent of Public Instruction (Executive Order 75-525).

(6) Department for Human Resources. Creation of the Division of Consumer Health Protection in the Bureau for Health Services (Executive Order 75-551); change of the name of the Center for Veterans Services in the Bureau for Social Services to the Kentucky Center for Veterans Affairs (Executive Order 74-371); and change of the name of the Center for Comprehensive Social Services Systems Development in the Bureau for Social Services to the Center for Aging and Community Services Development (Executive Order 75-552).

(7) Creation of the Division of Fiscal Management in the Department of Personnel (Executive Order 75-793).

(8) Department of Transportation. Internal reorganization of the Department of Transportation (Executive Order 74-483) to:

(a) Change the name of the Division of Aeronautics in the Office of Secretary of Transportation to the Division of Aeronautics and Airport Zoning;

(b) Reorganize the Office of Transportation Planning to include the Divisions of Statewide Transportation Planning, Environmental Systems, Urban and Regional Planning, Transportation Facilities Planning and a Programming Section; abolish the Division of Planning in the Bureau of Highways and transfer the division's functions to the Office of Transportation Planning;

(c) Transfer the Division of Contract Procurement from the Executive Office of Staff Services to the Bureau of Highways as a division under the Office of the Assistant State Highway Engineer for Construction;

(d) Transfer the Division of Hearings from the Office of General Counsel to the Bureau of Vehicle Regulation;

(e) Transfer the Division of Toll Facilities from the Executive Office of Staff Services to the Bureau of Highways as a division under the Office of Assistant State Highway Engineer for Operations; and

(f) Abolish the Office of Computer Services and the Division of Data Processing and transfer the functions of said units and the Divisions of Administrative Information Systems and Technical Computing to the Office of Administrative Services.

(9) Executive Department for Finance and Administration. Reorganization of the Office for Local Government to include, in addition to the Executive Director, a Deputy Director, a Division of Local Services and a Division of Regional Affairs, each headed by a Manager (Executive Order 75-711); reorganization of the Office of Computer Services to include, in addition to an Executive Director, a Deputy Commission of Computer Systems Planning, a Deputy Commissioner of Computer Systems Design, and a Deputy Commissioner of Computer Systems Operations, each appointed by the Commissioner pursuant to KRS Chapter 18 (Executive Order 75-197); establishment of a Division of Properties in the Bureau of Facilities Management, transferral of the Land Acquisition, Property Utilization and Space Management Sections from the Division of Engineering to the Division of Properties, and transferral of the Communications Section from the Division of Physical Plant to the Division of Properties (Executive Order 75-197).

Section 90. Each of the units cited in Section 89 of this Act shall have the duties and responsibilities assigned to it as set forth in the cited Executive Orders until changed by the head of the agency to which the unit is assigned, subject to the provisions of KRS Chapter 12.

Section 91. The Reviser of Statutes shall not codify the provisions of Sections 89 and 90 of this Act in the Kentucky Revised Statutes.

Section 92. KRS 12.280, 152.090 and 174.030 are repealed.

SB 117, AN ACT relating to death benefits.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 61.315 is amended to read as follows:

(1) As used in this section, "police officer" means every full-time police officer, *sheriff, or deputy sheriff,* who works not less than forty hours per week, *elected to office or* employed by any county or city or by the state; "firefighter" means every full-time fireman who works not less than forty hours per week, employed by any county or city or by the state.

(2) The spouse of any police officer, *sheriff, deputy sheriff* or firefighter whose death occurs as a direct result of an act in the line of duty shall receive a lump sum payment of five thousand dollars, which sum shall be paid by the State Treasurer from the General Expenditure Fund of the State Treasury. If there is no surviving spouse, the payment shall be made to the surviving children.

(3) The benefits payable under this section are in addition to any benefits now or hereafter provided under any police, *sheriff* or firemen's retirement or benefit fund established by the state, county, or any municipality.

SB 150, AN ACT relating to designation of the Kentucky coffeetree as the official tree of the Commonwealth.

WHEREAS, in the entire world of arboriculture only the Kentucky coffeetree bears the proud word Kentucky in its name; and

WHEREAS, the bean of the Kentucky coffeetree once was used as a substitute for coffee by the intrepid pioneers who carved the Commonwealth from the wilderness; and

WHEREAS, John Filson in his "History of Kentucky" did refer to the unique beauty and usefulness of the Kentucky coffeetree; and

WHEREAS, in 1783 General George Rogers Clark did send seeds of the Kentucky coffeetree to Thomas Jefferson and which seeds produced trees still gracing the grounds of Monticello; and

WHEREAS, the Kentucky coffeetree often is referred to as "Kentucky Mahogany" for the beauty of its wood; and

WHEREAS, the Kentucky coffeetree, although once growing in multitudinous plenty, now is an endangered species;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 2 IS CREATED TO READ AS FOLLOWS:

That the Kentucky coffeetree is named and designated as the Kentucky state tree.

The Committee on Rules reported **HB 22** with Committee Substitute attached thereto, **HB 100, HB 142, HB 205, HB 313,** and **HB 423** with Committee Amendment attached thereto, have been posted for passage in Orders of the Day, February 25, 1976.

The Committee on Rules reported the following Bills and Resolutions have been recommitted:

HB 374, to Committee on Appropriations and Revenue.

HB 271, with Committee Amendment attached thereto, to Committee on Agriculture and Natural Resources.

HJR 36, HB 249 with Committee Substitute attached thereto, and **HB 359** to Committee on State Government.

HB 473 and **HB 422** to Committee on Judiciary-Statutes.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Appropriations and Revenue: **HB 374.**

Counties and Special Districts: **HB 545.**

Education: **HB 241.**

Judiciary-Statutes: **HB 422, HB 473, HB 585, HB 112, HB 519, HB 474, HB 564.**

Calendar

HB 251, HB 285, HB 370, HB 496, and **SB 20** taken from the Calendar and read at length for the second time. Representative B. Richardson moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Motions, Petitions and Communications

Representative DeMarcus moved that the rules be suspended for reporting and acting on a Resolution. Agreed.

Representative DeMarcus moved the adoption of the following **HR 63:**

HR 63, A RESOLUTION adjourning in memory of Dr. William Harrison Jones.

WHEREAS, Dr. William Harrison Jones, beloved father of Frances Jones Mills, has departed this earthly life; and

WHEREAS, Dr. Jones did for 65 years practice medicine, heal the sick and attend to their afflictions; and

WHEREAS, this outstanding physician was named both Outstanding General Practitioner in Kentucky, and an Outstanding Member of the American Medical Association; and

WHEREAS, all Kentuckians are grieved by the loss of so fine a gentleman as Dr. Jones;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That when the House of Representatives adjourns this day, Tuesday, February 24, 1976, it does so in memory of Dr. William Harrison Jones.

Section 2. That the Clerk is hereby directed to transmit copies of this resolution to Mrs. Bertie Steely Jones, Mrs. Thelma Faulkner, and Mrs. Frances Jones Mills.

Agreed.

Representative DeMarcus moved that a call of the roll be taken to show co-sponsors of **HR 63.** Agreed.

The following members voted to co-sponsor **HR 63:** B. Adams, A. S. Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blandford, Blythe, Boatwright, Brinkley, Brown, Bruce, Burnette, Carpenter, Clarke, Cooper, Craddock, Crupper, Cyrus, Dawahare, DeMarcus, Denham, Deskins, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Floyd, Foster, Givhan, Gray, Guenthner, Hancock, Hardwick, Head, Holbrook, Hopkins, Hughes, Imes, Isler, Kenton, King, Kleier, LeMaster, Lindsay, Little, Mann, May, Maynard, McBee, McBride, McGill, Morgan, Morris, Muncy, Nett, Overstreet, Pearl, Priddy, Rattliff, B. Richardson, P. Richardson, Robinson, Romines, Sale, Schmidt, Siemens, Siler, Tobin, Thomas, J. Turner, R. Turner, Vincent, Wible, Wooden, Wright.

The following members filed Floor Amendments to Bills and Resolutions: Representative Blume, Floor Amendments No. 1 and No. 2 to **HB 122;** Representative Bennett, Floor Amendment No. 1 to the Committee Substitute for **HB 30;** Representative Priddy, Floor Amendment No. 1 to **HB 258;** Representative Denham, Floor Title Amendment to **HB 73.**

Representative J. Allen requested that he be recorded as voting "yea" on **HB 475.**

Representative Wright moved that the House go to the next order of business.

On the roll call the vote was yeas 29-A. S. Adams, Blair, Blandford, Boatwright, Burnette, Cooper, Crupper, DeMarcus, Doss, Fitzgerald, Floyd, Foster, Givhan, Holbrook, Jones, Kenton, Mann, Mason, Maynard, McGill, Overstreet, Pearl, B. Richardson, Robinson, R. Turner, Vincent, Wible, Wooden, Wright. Nays 39-B. Adams, J. Allen, W. Allen, Arnold, Bennett, Benson, Beshear, Bevins, Blume, Blythe, Brinkley, Carpenter, Clarke, Craddock, Cyrus, Dawahare, Denham, Deskins, Dunn, Gray, Hancock, Hardwick, Hopkins, Hughes, Isler, King, Lindsay, Little, May, McBride, Morgan, Morris, Nett, P. Richardson, Sale, Schmidt, Stephens, Tobin, J. Turner.

The motion that the House go to the next order of business was rejected.

Representative Hughes moved that **HB 396** be recommitted to the Committee on Health and Welfare.

Representative Little moved that the previous question be adopted on the motion that **HB 396** be recommitted to the Committee on Health and Welfare.

Representative Fitzgerald moved that the House recess until 3:05 p.m.

On the roll call the vote was yeas 6-J. Allen, Blythe, Burnette, Foster, Kleier, Romines. Nays 81-B. Adams, A. S. Adams, W. Allen, Arnold, Bendl, Benson, Beshear, Bevins, Blair, Blandford, Blume, Boatwright, Brown, Bruce, Carpenter, Clarke, Cooper, Crupper, Cyrus, Dawahare, DeMarcus, Denham, Deskins, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Floyd, Givhan, Gray, Guenthner, Hancock, Hardwick, Head, Holbrook, Holloway, Hopkins, Hughes, Hurst, Imes, Isler, Jones, Kenton, Kidd, King, LeMaster, Lindsay, Little, Mann, Mason, May, Maynard, McBee, McBride, McGill, Morris, Muncy, Nett, Overstreet, Pearl, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Robinson, Sale, Schmidt, Siemens, Stephens, Tobin, Thomas, J. Turner, R. Turner, Vincent, White, Wible, Wooden, Wright, Yates.

The motion that the House recess was rejected.

On the roll call the vote was yeas 1-Carpenter. Nays 56-B. Adams, J. Allen, Bendl, Bennett, Benson, Beshear, Bevins, Blandford, Blume, Brown, Cooper, Crupper, Cyrus, DeMarcus, Denham, Deskins, Donnermeyer, Doss, Dunn, Fitzgerald, Floyd, Foster, Freeman, Givhan, Gray, Hardwick, Holbrook, Hughes, Imes, Isler, Kenton, Kidd, King, Lindsay, Little, Mason, Maynard, McBee, McBride, McGill, Overstreet, Pearl, Rattliff, Richards, B. Richardson, P. Richardson, Romines, Sale, Stephens, Tobin, Thomas, J. Turner, R. Turner, Vincent, Wible, Yates.

The motion that the Previous Question be adopted on the motion that **HB 396** be recommitted to the Committee on Health and Welfare was rejected.

Orders of the Day

HB 70, with Committee Substitute and Committee Amendment to the Committee Substitute attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stephens moved the adoption of the Committee Substitute for **HB 70**. Agreed.

Representative Stephens moved the adoption of the Committee Amendment No. 1 to the Committee Substitute for **HB 70**. Agreed.

Representative Stephens moved that **HB 70**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was yeas 86-B. Adams, A. S. Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blandford, Blume, Blythe, Boatwright, Brinkley, Brown, Bruce, Burnette, Carpenter, Cooper, Craddock, Crupper, Cyrus, Dawahare, Denham, Deskins, Dietz, Donnermeyer, Doss, Fitzgerald, Foster, Freeman, Gay, Givhan, Gray, Guenthner, Hancock, Head, Holbrook, Holloway, Hopkins, Hughes, Imes, Isler, Kenton, Kidd, King, Kleier, LeMaster, Lindsay, Little, Mann, Mason, May, Maynard, McBee, McBride, McGill, Morgan, Morris, Muncy, O'Brien, Overstreet, Pearl, Richards, B. Richardson, P. Richardson, Robinson, Romines, Sale, Schmidt, Siemens, Siler, Stephens, Tobin, Thomas, J. Turner, R. Turner, Vincent, Wells, White, Wible, Wooden, Wright, Yates. Nays 3-DeMarcus, Jones, Nett.

HB 70, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Stephens moved that the vote by which **HB 70**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 343 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Maynard moved the adoption of the following Floor Amendment No. 1 to **HB 343:**

Amend printed copy of **HB 343,** page 1, line 3, by deleting the words "for Human Resources" and substituting in lieu thereof the words "of Transportation".

Agreed.

Representative Maynard moved that **HB 343,** as amended, be passed.

On the roll call the vote was yeas 90-B. Adams, A. S. Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blume, Blythe, Boatwright, Brinkley, Brown, Bruce, Carpenter, Clarke, Cooper, Craddock, Crupper, Cyrus, Dawahare, DeMarcus, Denham, Deskins, Dietz, Doss, Dunn, Fitzgerald, Floyd, Foster, Freeman, Gay, Givhan, Gray, Guenthner, Hancock, Hardwick, Head, Holbrook, Holloway, Hopkins, Hughes, Imes, Isler, Jones, Kenton, Kidd, King, Kleier, LeMaster, Lindsay, Little, Mann, Mason, May, Maynard, McBee, McBride, McGill, Morgan, Morris, Muncy, Nett, O'Brien, Overstreet, Pearl, Priddy, Rattliff, Richards, B. Richardson, Robinson, Romines, Sale, Schmidt, Siemens, Siler, Tobin, Thomas, J. Turner, R. Turner, Vincent, Wells, White, Wible, Wooden, Wright, Yates. Nays 0.

HB 343, as amended, was passed and the title agreed to.

Representative Maynard moved that the vote by which **HB 343,** as amended, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 408 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative McBride moved that **HB 408** be passed.

On the roll call the vote was yeas 46-Arnold, Blandford, Blume, Blythe, Boatwright, Brinkley, Brown, Bruce, Carpenter, Craddock, Dawahare, Fitzgerald, Foster, Gay, Givhan, Guenthner, Head, Hopkins, Jones, Kenton, King, Kleier, LeMaster, Lindsay, Mann, McBride, McGill, Morgan, Morris, Muncy, Pearl, B. Richardson, P. Richardson, Sale, Schmidt, Siemens, Siler, Stephens, Tobin. Thomas, J. Turner, Wells, White, Wible, Wooden, Yates. Nays 32-A. S. Adams, J. Allen, W. Allen, Bendl, Benson, Beshear, Blair, Burnette, Clarke, Crupper, DeMarcus, Denham, Deskins, Dietz, Dunn, Freeman, Gray, Hancock, Hardwick, Hughes, Imes, Isler, Kidd, Little, Maynard, Nett, Overstreet, Priddy, Robinson, R. Turner, Vincent, Wright.

HB 408 was passed and the title agreed to.

Representative McBride moved that the vote by which **HB 408** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 396 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Tobin moved that **HB 396** be recommitted to the Committee on Health and Welfare.

On the roll call the vote was yeas 25-Beshear, Bevins, Blume, Carpenter, Craddock, Crupper, Denham, Givhan, Guenthner, Hopkins, Hughes, Kenton, Kidd, King, Lindsay, Maynard, McBride, McGill, Morris, Richards, Stephens, Tobin, J. Turner, Wells, Wright. Nays 49-A. S. Adams, J. Allen, W. Allen, Bennett, Benson, Blair, Blandford, Burnette, Cooper, Cyrus, Dawahare, DeMarcus, Deskins, Dietz, Doss, Floyd, Foster, Freeman, Gay, Gray, Hancock, Hardwick, Holbrook, Imes, Isler, Jones, Little, Mann, Mason, May, McBee, Muncy, Overstreet, Pearl, Priddy, Rattliff, B. Richardson, P. Richardson, Robinson, Sale, Schmidt, Siler, Thomas, R. Turner, Vincent, White, Wible, Wooden, Yates.

The motion that **HB 396** be recommitted to the Committee on Health and Welfare was rejected.

Representative Mann moved that **HB 396** be passed.

Representative Fitzgerald moved the adoption of the Previous Question on **HB 396.**

On the roll call the vote was yeas 43-A. S. Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Blair, Blandford, Burnette, Cooper, Craddock, Crupper, Cyrus, Dawahare, Deskins, Dietz, Donnermeyer, Doss, Fitzgerald, Foster, Gray, Imes, Isler, LeMaster, Little, Mann, May, Maynard, McBee, Muncy, Pearl, Priddy, B. Richardson, P. Richardson, Robinson, Romines, Sale, Siler, Thomas, R. Turner, Vincent, Wible, Yates. Nays 32-B. Adams, Benson, Beshear, Bevins, Blume, Bruce, Carpenter, Clarke, DeMarcus, Denham, Floyd, Freeman, Givhan, Guenthner, Hardwick, Holloway, Hopkins, Hughes, Kidd, King, Lindsay, McBride, McGill, Morris, Overstreet, Rattliff, Richards, Stephens, Tobin, J. Turner, Wells, Wright.

The motion that the Previous Question be adopted on **HB 396** was rejected.

Representative Beshear moved the adoption of the following Floor Amendment No. 1 to **HB 396:**

Amend printed copy of **HB 396,** page 1, line 6, after "examiners;"; insert the following: "*provided, however, that as used in subsection (13) of Section 2 of this Act, the term 'Board' shall mean the State Board of Medical Licensure.*"

Representative Tobin moved that Floor Amendment No. 1 to **HB 396** be laid on the table.

On the roll call the vote was yeas 20-Beshear, Bevins, Blume, Blythe, Denham, Freeman, Gay, Givhan, Guenthner, Hopkins, Hughes, Kidd, King, Lindsay, McBride, McGill, Richards, Stephens, Tobin, J. Turner. Nays 53-J. Allen, W. Allen, Arnold, Bendl, Benson, Blair, Blandford, Brown, Burnette, Clarke, Cooper, Craddock, Crupper, Cyrus, Dawahare, Deskins, Dietz, Donnermeyer, Doss, Floyd, Foster, Gray, Hancock, Hardwick, Holbrook, Hurst, Imes, Isler, Kleier, LeMaster, Little, Mann, Mason, May, McBee, Muncy, O'Brien, Overstreet, Pearl, Priddy, Rattliff, B. Richardson, Robinson, Sale, Schmidt, Siemens, Stewart, R. Turner, Vincent, White, Wible, Wooden, Yates.

The motion that Floor Amendment No. 1 to **HB 396** be laid on the table was rejected.

On the roll call the vote was yeas 22-B. Adams, Beshear, Bevins, Blume, Blythe, Denham, Givhan, Guenthner, Holbrook, Holloway, Hopkins, Hughes, Kidd, King, Lindsay, McBride, McGill, Nett, Richards, Stephens, Tobin, J. Turner. Nays 52-J. Allen, W. Allen, Arnold, Bendl, Benson, Blair, Blandford, Brown, Burnette, Clarke, Cooper, Crupper, Cyrus, Dawahare, Deskins, Dietz, Doss, Floyd, Foster, Freeman, Gay, Gray, Hancock, Hardwick, Hurst, Imes, Isler, Kleier, Little, Mann, Mason, May, McBee, Muncy, Overstreet, Pearl, Priddy, Rattliff, B. Richardson, Robinson, Sale, Schmidt, Siemens, Siler, Stewart, Thomas, R. Turner, Vincent, White, Wible, Wooden, Yates.

Floor Amendment No. 1 to **HB 396** was defeated.

Representative Carpenter moved that the rules be suspended for the purpose of allowing him to withdraw his name as co-sponsor of **HB 396.** Agreed.

On the roll call the vote was yeas 46-Blair, Blandford, Brown, Clarke, Crupper, Cyrus, Dawahare, DeMarcus, Deskins, Dietz, Doss, Floyd, Foster, Gray, Hancock, Hardwick, Holbrook, Hurst, Imes, Isler, Kleier, LeMaster, Little, Mann, Mason, May, McBee, Muncy, O'Brien, Overstreet, Pearl, Priddy, Rattliff, B. Richardson, Robinson, Sale, Schmidt, Siemens, Siler, Stewart, R. Turner, Vincent, White, Wible, Wooden, Yates. Nays 31-B. Adams, A. S. Adams, J. Allen, W. Allen, Arnold, Benson, Beshear, Bevins, Blume, Blythe, Bruce, Carpenter, Denham, Givhan, Guenthner, Holloway, Hopkins, Hughes, Kenton, Kidd, King, Lindsay, McBride, McGill, Morris, Richards, Stephens, Tobin, J. Turner, Wells, Wright.

HB 396 was passed and the title agreed to.

Representative Mann moved that the vote by which **HB 396** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 121 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Bennett moved the adoption of the following Floor Amendment No. 2 to **HB 121:**

Amend printed copy of **HB 121**, page 1, line 10, after the "." add the following:

"Provided however that those farmers employing agricultural workers shall be exempt from the provisions of this Act to the extent of the employment of such agricultural workers pursuing such agricultural work."

Agreed.

Representative Bennett moved that **HB 121**, as amended, be passed.

On the roll call the vote was yeas 75-B. Adams, A. S. Adams, J. Allen, W. Allen, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blandford, Boatwright, Brinkley, Brown, Bruce, Burnette, Carpenter, Clarke, Cooper, Cyrus, DeMarcus, Deskins, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Floyd, Foster, Freeman, Givhan, Gray, Guenthner, Hardwick, Head, Hughes, Hurst, Imes, Isler, Jones, Kenton, Kidd, King, Kleier, LeMaster, Lindsay, Little, Mann, Mason, May, Maynard, McBee, McBride, McGill, Morgan, Morris, Muncy, Nett, O'Brien, Overstreet, Pearl, Priddy, Richards, B. Richardson, Romines, Sale, Schmidt, Siemens, Siler, J. Turner, R. Turner, Vincent, White, Wible, Wright. Nays 8-Blythe, Crupper, Denham, Hancock, Holbrook, Robinson, Stephens, Tobin.

HB 121, as amended, was passed and the title agreed to.

Representative Bennett moved that the vote by which **HB 121**, as amended, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 128 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stephens moved the adoption of the following Floor Amendment No. 1 to **HB 128**:

Amend printed copy of **HB 128**, page 1, line 8, after the word "person" and before the word "who", insert "or an agent of such person, who has risked his money or part thereof or has financially indebted himself in a business venture, which would afford employment for others and"

and on page 1, line 11, after the word "year" insert a bracket "[" before the word "and" and "]" following the word "person" on said line.

and on page 1, line 17, by deleting said line in its entirety and substituting in lieu thereof the following:

"(4) "Employ" includes to suffer, permit to work or afford work to others."

Agreed.

Representative Priddy moved that **HB 128**, as amended, be passed.

On the roll call the vote was yeas 86-B. Adams, A. S. Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blandford, Boatwright, Brinkley, Brown, Bruce, Burnette, Carpenter, Clarke, Cooper, Craddock, Crupper, Cyrus, DeMarcus, Deskins, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Floyd, Foster, Givhan, Gray, Guenthner, Hancock, Hardwick, Head, Holbrook, Holloway, Hopkins, Hughes, Imes, Isler, Jones, Kenton, Kidd, King, Kleier, LeMaster, Lindsay, Little, Mann, Mason, May, Maynard, McBride, McGill, Morgan, Morris, Muncy, Nett, O'Brien, Overstreet, Pearl, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Robinson, Romines, Sale, Schmidt, Siemens, Siler, Stephens, Tobin, Thomas, J. Turner, Vincent, Wells, Wible, Wooden, Wright, Yates. Nays 1-Blythe.

HB 128, as amended, was passed and the title agreed to.

Representative Priddy moved that the vote by which **HB 128**, as amended, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative B. Richardson moved that **HB 278**, with Committee Amendment attached thereto, be recommitted to the Committee on Judiciary-Statutes.

On the roll call the vote was yeas 62-B. Adams, J. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blandford, Blythe, Brown, Carpenter, Clarke, Cooper, Craddock, Crupper, Denham, Deskins, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Foster, Freeman, Gay, Gray, Hancock, Hardwick, Head, Holloway, Hopkins, Imes, Isler, Jones, Kenton, King, LeMaster, Little, Mason, Maynard, McBee, McGill, Morgan, Morris, Pearl, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Romines, Sale, Siemens, Stephens, Tobin, Thomas, Vincent, Wible, Wright, Yates. Nays 11-W. Allen, Burnette, Cyrus, DeMarcus, Guenthner, Holbrook, McBride, Muncy, Robinson, Siler, R. Turner.

The motion that **HB 278,** with Committee Amendment attached thereto, be recommitted to the Committee on Judiciary-Statutes was adopted.

HB 218 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hopkins moved the adoption of the following Floor Amendment No. 1 to **HB 218:**

Amend printed copy of **HB 218,** page 1, line 15, by inserting after "guardian" the following: "*No parent or guardian shall be liable under the provisions of this subsection in a cumulative amount in excess of ten thousand dollars ($10,000) for the willful marking upon, defacing or damaging of any property by any child.*"

On the roll call the vote was, Yeas: 48-J. Allen, W. Allen, Arnold, Beshear, Bevins, Blandford, Brinkley, Brown, Bruce, Burnette, Clarke, Cooper, Cyrus, Denham, Deskins, Doss, Dunn, Foster, Freeman, Gay, Givhan, Gray, Hancock, Holbrook, Holloway, Hopkins, Hughes, Imes, Kenton, King, Lindsay, Little, Mason, McBride, Morris, Muncy, O'Brien, Pearl, Richards, B. Richardson, Sale, Siemens, Stephens, Tobin, Thomas, R. Turner, Wible, Yates. Nays: 15-Bendl, Benson, Blythe, Carpenter, Crupper, DeMarcus, Fitzgerald, Floyd, Hardwick, LeMaster, Mann, Overstreet, Rattliff, Robinson, Vincent.

Floor Amendment No. 1 to **HB 218** was adopted.

Representative Hopkins moved that **HB 218** as amended by passed.

On the roll call the vote was yeas 46-W. Allen, Arnold, Bendl, Benson, Beshear, Bevins, Blythe, Boatwright, Bruce, Burnette, Carpenter, Cooper, DeMarcus, Denham, Foster, Freeman, Gay, Givhan, Guenthner, Hancock, Holbrook, Holloway, Hopkins, Hughes, Hurst, Jones, Kenton, Kleier, LeMaster, Lindsay, Mason, McBride, McGill, Morgan, Muncy, O'Brien, Pearl, Rattliff, Robinson, Sale, Siemens, Stephens, Tobin, R. Turner, Wells, Wright. Nays 39-B. Adams, A. S. Adams, J. Allen, Blair, Brinkley, Brown, Clarke, Craddock, Crupper, Cyrus, Deskins, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Floyd, Gray, Hardwick, Head, Imes, Isler, King, Little, Mann, May, Maynard, McBee, Morris, Overstreet, Richards, B. Richardson, P. Richardson, Siler, Thomas, J. Turner, Vincent, Wible, Yates.

HB 218, as amended, was passed and the title agreed to.

Representative Hopkins moved that the vote by which **HB 218,** as amended, was passed be reconsidered and said motion be postponed indefinitely.

On the roll call the vote was yeas 48-J. Allen, W. Allen, Arnold, Benson, Beshear, Bevins, Blandford, Blythe, Brown, Bruce, Burnette, Carpenter, Cooper, Craddock, DeMarcus, Denham, Foster, Freeman, Gay, Givhan, Guenthner, Holbrook, Holloway, Hopkins, Hughes, Hurst, Imes, Jones, Kenton, Kleier, LeMaster, Lindsay, Mason, McBride, McGill, Morgan, Muncy, O'Brien, Rattliff, B. Richardson, Robinson, Sale, Siemens, Stephens, Tobin, J. Turner, R. Turner, Wells. Nays 34-B. Adams, A. S. Adams, Bendl, Bennett, Blair, Boatwright, Brinkley, Clarke, Crupper, Cyrus, Deskins, Dietz, Donnermeyer, Doss, Fitzgerald, Floyd, Gray, Hardwick, Head, Isler, King, Little, Mann, May, Maynard, McBee, Morris, Nett, Overstreet, Richards, Thomas, Vincent, Wible, Yates.

The motion that the vote by which **HB 218,** as amended, was passed be reconsidered and said motion be postponed indefinitely was adopted.

HB 305 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hopkins moved that **HB 305** be passed.

Representative Overstreet moved that **HB 305** be laid on the table.

On the roll call the vote was yeas 42-B. Adams, J. Allen, Bendl, Blair, Blandford, Boatwright, Brinkley, Bruce, Clarke, Cooper, Crupper, Cyrus, Deskins, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Floyd, Gray, Hardwick, Head, Imes, Isler, Kidd, Little, May, Maynard, McBee, McBride, McGill, Muncy, Overstreet, Priddy, Rattliff, Richards, B. Richardson, Tobin, R. Turner, Vincent, Wible, Yates. Nays 27-W. Allen, Benson, Beshear, Bevins, Blythe, Burnette, Denham, Foster, Freeman, Gay, Givhan, Guenthner, Hancock, Holbrook, Holloway, Hopkins, Hughes, King, Kleier, Mason, O'Brien, Robinson, Sale, Schmidt, Siemens, White, Wooden.

The motion that **HB 305** be laid on the table was adopted.

HB 37, with Committee Substitute attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Kleier moved the adoption of the Committee Substitute for **HB 37.** Agreed.

Representative Kleier moved that **HB 37,** by way of Committee Substitute, be passed.

On the roll call the vote was yeas 60-A. S. Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Blair, Blandford, Blythe, Brown, Bruce, Cyrus, Deskins, Donnermeyer, Doss, Dunn, Floyd, Foster, Freeman, Gay, Gray, Hancock, Hardwick, Head, Holbrook, Hopkins, Hughes, Imes, Isler, Kenton, Kidd, King, Kleier, LeMaster, Little, Maynard, McBee, McBride, McGill, Morgan, Morris, Muncy, Nett, Overstreet, Pearl, Priddy, Robinson, Romines, Sale, Siemens, Siler, Stephens, Tobin, R. Turner, Vincent, White, Wible, Wooden, Yates. Nays 12-Burnette, Clarke, Craddock, Crupper, DeMarcus, Denham, Guenthner, Holloway, Lindsay, Mason, O'Brien, Pearl.

HB 37, by way of Committee Substitute, was passed and the title agreed to.

Representative Kleier moved that the vote by which **HB 37,** by way of Committee Substitute, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 71 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Sale moved the adoption of the following Floor Amendment No. 1 to **HB 71:**

Amend printed copy of **HB 71,** page 2, after line 22 by adding:

"Section 2. There is hereby appropriated to the department for the purpose of carrying out this Act, out of the General Fund $25,000 for the fiscal year 1976-77 and $25,000 for the fiscal year 1977-78, which sums shall not lapse."

Agreed.

Representative Sale moved that **HB 71,** as amended, be passed.

On the roll call the vote was yeas 88-B. Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blandford, Boatwright, Brinkley, Brown, Bruce, Burnette, Carpenter, Clarke, Cooper, Craddock, Crupper, Cyrus, DeMarcus, Deskins, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Floyd, Foster, Freeman, Gay, Givhan, Gray, Guenthner, Hancock, Hardwick, Head, Holbrook, Holloway, Hopkins, Hughes, Hurst, Imes, Isler, Jones, Kenton, Kidd, King, Kleier, LeMaster, Lindsay, Little, Mann, Mason, May, Maynard, McBee, McBride, McGill, Morgan, Morris, Muncy, Nett, O'Brien, Overstreet, Pearl, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Robinson, Romines, Sale Schmidt, Siemens, Siler, Stephens, Tobin, Thomas, R. Turner, Vincent, Wells, White, Wible, Wooden, Yates. Nays 0.

HB 71, as amended, was passed and the title agreed to.

Representative Sale moved that the vote by which **HB 71**, as amended, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 378, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Bruce moved the adoption of the Committee Amendment to **HB 378**. Agreed.

Representative Bruce moved that **HB 378**, as amended, be passed.

On the roll call the vote was yeas 87-B. Adams, A. S. Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blandford, Blythe, Boatwright, Brinkley, Brown, Bruce, Burnette, Carpenter, Clarke, Cooper, Craddock, Crupper, Cyrus, DeMarcus, Denham, Deskins, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Floyd, Foster, Gay, Givhan, Gray, Guenthner, Hancock, Hardwick, Head, Holbrook, Holloway, Hopkins, Hughes, Hurst, Imes, Isler, Jones, Kenton, Kidd, Kleier, LeMaster, Lindsay, Little, Mason, May, Maynard, McBee, McBride, McGill, Morgan, Morris, Muncy, O'Brien, Overstreet, Pearl, Priddy, Richards, B. Richardson, P. Richardson, Robinson, Romines, Sale, Schmidt, Siemens, Siler, Stephens, Stewart, Tobin, Thomas, R. Turner, Wells, White, Wible, Wooden, Yates. Nays 0.

HB 378, as amended, was passed and the title agreed to.

Representative Bruce moved that the vote by which **HB 378**, as amended, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

SB 68 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Mann moved that **SB 68** be passed.

On the roll call the vote was yeas 77-B. Adams, A. S. Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Beshear, Bevins, Blair, Blandford, Blythe, Boatwright, Brinkley, Brown, Bruce, Burnette, Carpenter, Clarke, Craddock, Cyrus, Denham, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Floyd, Foster, Givhan, Gray, Guenthner, Head, Holbrook, Holloway, Hopkins, Hughes, Hurst, Imes, Isler, Jones, Kenton, Kidd, King, Kleier, LeMaster, Lindsay, Little, Mann, Mason, May, Maynard, McBee, McBride, McGill, Morgan, Morris, Muncy, O'Brien, Overstreet, Pearl, Priddy, Rattliff, Richards, B. Richardson, Romines, Sale, Schmidt, Siemens, Stephens, Stewart, Thomas, Vincent, Wells, Wible, Wooden, Yates. Nays 11-Benson, Cooper, Crupper, DeMarcus, Deskins, Hancock, P. Richardson, Robinson, Siler, Tobin, White.

SB 68 was passed and the title agreed to.

Representative Mann moved that the vote by which **SB 68** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

SCR 17 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Blandford moved that **SCR 17** be passed.

On the roll call the vote was yeas 86-B. Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blandford, Blythe, Boatwright, Brinkley, Brown, Bruce, Burnette, Carpenter, Clarke, Cooper, Craddock, Crupper, Cyrus, Denham, Deskins, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Floyd, Foster, Gay, Givhan, Gray, Hancock, Hardwick, Head, Holbrook, Holloway, Hopkins, Hughes, Hurst, Isler, Jones, Kenton, Kidd, King, Kleier, LeMaster, Lindsay, Little, Mann, Mason, May, McBee, McBride, McGill, Morgan, Morris, Muncy, Nett, O'Brien, Pearl, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Robinson, Romines, Sale, Schmidt, Siemens, Siler, Stephens, Stewart, Tobin, Thomas, J. Turner, R. Turner, Vincent, White, Wible, Wooden, Yates. Nays 2-Guenthner, Imes.

SCR 17 was passed and the title agreed to.

Representative Blandford moved that the vote by which **SCR 17** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 83, by way of Committee Substitute, taken from Orders of the Day. Representative B. Richardson moved that it be placed upon its passage. Agreed.

Representative Mason moved the adoption of the following Floor Amendment No. 1 to the Committee Substitute for **HB 83:**

Amend printed copy of Committee Substitute for **HB 83,** page 1, line 3, by deleting all of the words following "(1)"

Page 1, by deleting line 4 in its entirety

Page 1, line 5, by deleting the following "guilty of reckless driving." and the bracket preceding the word "The"

Page 1, line 8, by deleting the bracket following the word "highway." and by adding the following: "*Any violation of this provision shall constitute careless driving.*"

Page 1, line 9, by deleting the word "Any" and the brackets around the word "No" and by deleting the word "who"

Page 1, line 10, by deleting the word "injure" and inserting in lieu thereof the word "*damage*"

Page 1, line 11, by deleting the following: "shall be guilty of careless driving." and by inserting in lieu thereof a period after the word "highway"

Page 1, following line 11, by adding the following phrase: "*(3) Any person who operates any vehicle in wilful or wanton disregard for the safety of persons or property is guilty of reckless driving.*"

Page 1, line 19, by deleting the phrase "subsection (2) of KRS" and inserting after "189.290" the following: "*except subsection* (3)"

Page 7, line 18, by deleting "(1)" after the word "subsection" and inserting in lieu thereof "*(3)*"

Agreed.

Representative Mason moved that **HB 83,** by way of Committee Substitute as amended, be passed.

On the roll call the vote was yeas 81-B. Adams, A. S. Adams, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Blair, Blandford, Blythe, Boatwright, Brinkley, Brown, Bruce, Carpenter, Clarke, Craddock, Crupper, Cyrus, Dawahare, DeMarcus, Denham, Deskins, Dietz, Donnermeyer, Dunn, Fitzgerald, Floyd, Foster, Givhan, Gray, Guenthner, Hancock, Hardwick, Head, Holbrook, Holloway, Hopkins, Hughes, Hurst, Imes, Isler, Jones, Kenton, Kidd, King, LeMaster, Lindsay, Mann, Mason, May, McBee, McBride, McGill, Morgan, Morris, Nett, O'Brien, Pearl, Richards, B. Richardson, P. Richardson, Robinson, Romines, Sale, Schmidt, Siemens, Siler, Stephens, Stewart, Tobin, Thomas, J. Turner, R. Turner, Vincent, Wells, Wible, Wooden, Wright, Yates. Nays 6-J. Allen, Bevins, Burnette, Little, Muncy, Siler.

HB 83, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Mason moved that the vote by which **HB 83,** by way of Committee Substitute as amended, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative B. Richardson moved that consideration of **HB 73** be deferred and that it retain its position in Orders of the Day. Agreed.

HB 114, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative B. Richardson moved the adoption of the Committee Amendment to **HB 114.** Agreed.

Representative B. Richardson moved that **HB 114,** as amended, be passed.

On the roll call the vote was yeas 49-A. S. Adams, J. Allen, Bendl, Bennett, Benson, Beshear, Blandford, Boatwright, Brinkley, Clarke, Cyrus, Dawahare, Deskins, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Foster, Freeman, Gray, Guenthner, Hardwick, Imes, Isler, Kenton, King, Kleier, LeMaster, Little, Mann, Mason, Maynard, McGill, Morgan, Nett, O'Brien, Rattliff, Richards, B. Richardson, Robinson, Romines, Siemens, Tobin, Vincent, Wells, Wible, Wooden, Wright. Nays 35-B. Adams, W. Allen, Arnold, Bevins, Blair, Blythe, Brown, Bruce, Burnette, Carpenter, Craddock, Crupper, DeMarcus, Denham, Gay, Givhan, Hancock, Head, Holbrook, Holloway, Hopkins, Hughes, Hurst, Jones, May, McBee, McBride, Pearl, P. Richardson, Siler, Stephens, Stewart, Thomas, J. Turner, R. Turner.

HB 114, as amended, was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **HB 114,** as amended, was passed be reconsidered and said motion be postponed indefinitely.

On the roll call the vote was yeas 47-J. Allen, W. Allen, Bendl, Bennett, Benson, Beshear, Blandford, Boatwright, Brinkley, Brown, Crupper, Cyrus, Denham, Deskins, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Foster, Gay, Givhan, Gray, Imes, Isler, Kenton, Kidd, King, Kleier, LeMaster, Little, Mann, Mason, McGill, Priddy, Richards, B. Richardson, Robinson, Romines, Siemens, Siler, Stewart, J. Turner, Vincent, Wells, Wible, Yates. Nays 26-B. Adams, A. S. Adams, Bevins, Blair, Blythe, Burnette, Carpenter, Craddock, Dawahare, DeMarcus, Guenthner, Hancock, Hardwick, Holbrook, Holloway, Hughes, Jones, Lindsay, McBee, McBride, O'Brien, Pearl, P. Richardson, Schmidt, Stephens, R. Turner.

The motion that the vote by which **HB 114,** as amended, was passed be reconsidered and said motion be postponed indefinitely was adopted.

HB 186, with Committee Substitute and Committee Amendment to the Committee Substitute attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Wible moved the adoption of the Committee Substitute for **HB 186.** Agreed.

Representative Wible moved the adoption of the Committee Amendment to the Committee Substitute for **HB 186.** Agreed.

Representative Wible moved that **HB 186,** by way of Committee Substitute as amended, be passed.

On the roll call the vote was yeas 87-B. Adams, A. S. Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blandford, Blythe, Boatwright, Brinkley, Brown, Bruce, Burnette, Carpenter, Clarke, Craddock, Dawahare, DeMarcus, Denham, Deskins, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Floyd, Foster, Freeman, Gay, Givhan, Gray, Guenthner, Hancock, Hardwick, Head, Holbrook, Holloway, Hopkins, Hughes, Hurst, Imes, Isler, Jones, Kenton, Kidd, King, Kleier, LeMaster, Lindsay, Little, Mann, Mason, May, McBride, McGill, Morgan, Morris, Nett, O'Brien, Pearl, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Robinson, Romines, Schmidt, Siemens, Siler, Stephens, Tobin, Thomas, J. Turner, R. Turner, Vincent, Wells, White, Wible, Wooden, Wright, Yates. Nays 0.

HB 186, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Wible moved that the vote by which **HB 186,** by way of Committee Substitute as amended, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 280 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative B. Adams moved the adoption of the following Floor Amendment No. 1 to **HB 280:**

Amend printed copy of **HB 280,** page 23, following line 21, by inserting the following:

"SECTION 28. A NEW SECTION OF KRS CHAPTER 12 IS CREATED TO READ AS FOLLOWS:

No board or commission covered by the provisions of this Act shall receive an appropriation in excess of the anticipated revenue generated by fees or other income of the board or commission"; and on

line 22, by deleting "28" and substituting in lieu thereof "29"

Agreed.

Representative Mann moved that **HB 280,** as amended, be passed.

On the roll call the vote was yeas 34-Bendl, Bennett, Benson, Blandford, Boatwright, Brinkley, Clarke, DeMarcus, Denham, Dietz, Donnermeyer, Fitzgerald, Floyd, Hardwick, Head, Hughes, Isler, Kenton, King, Mann, May, McBride, O'Brien, Priddy, B. Richardson, Romines, Siemens, Stephens, J. Turner, Vincent, Wells, Wible, Wooden, Yates. Nays 52-B. Adams, A. S. Adams, J. Allen, W. Allen, Arnold, Beshear, Bevins, Blair, Blythe, Brown, Bruce, Burnette, Craddock, Cyrus, Dawahare, Deskins, Doss, Dunn, Foster, Freeman, Gay, Givhan, Gray, Guenthner, Hancock, Holbrook, Holloway, Hopkins, Hurst, Imes, Jones, Kidd, Lindsay, Little, Mason, McBee, McGill, Morgan, Morris, Nett, Pearl, Rattliff, Richards, P. Richardson, Robinson, Schmidt, Siler, Tobin, Thomas, R. Turner, White, Wright.

HB 280, as amended, was defeated.

Representative Blair moved that the vote by which **HB 280,** as amended, was defeated be reconsidered and said motion be postponed indefinitely.

On the roll call the vote was, Yeas: 53-B. Adams, A. S. Adams, J. Allen, W. Allen, Arnold, Bevins, Blair, Blandford, Blythe, Brown, Burnette, Carpenter, Craddock, Cyrus, Dawahare, DeMarcus, Deskins, Doss, Fitzgerald, Foster, Freeman, Gay, Givhan, Gray, Guenthner, Hancock, Holbrook, Holloway, Hopkins, Hurst, Imes, Jones, Kidd, Kleier, Lindsay, Little, Mason, McBee, McGill, Morgan, Morris, Nett, Priddy, Richards, B. Richardson, P. Richardson, Robinson, Schmidt, Siler, Tobin, J. Turner, White, Wright. Nays 28-Bendl, Bennett, Benson, Beshear, Boatwright, Brinkley, Clarke, Denham, Dietz, Donnermeyer, Dunn, Head, Hughes, Isler, Kenton, King, LeMaster, Mann, May, McBride, O'Brien, Romines, Siemens, Stephens, Vincent, Wible, Wooden, Yates.

The motion that the vote by which **HB 280,** as amended, was defeated be reconsidered and said motion be postponed indefinitely was adopted.

Report on Enrolled Bills

The Committee on Enrollment reported **HB 72** and **HB 219** had been examined and found correctly enrolled. **HB 72** and **HB 219** read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate.

Orders of the Day (continued)

HB 289 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

On the roll call the vote was yeas 81-B. Adams, A. S. Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blandford, Blythe, Boatwright, Brinkley, Brown, Bruce, Burnette, Carpenter, Clarke, Craddock, Cyrus, Dawahare, DeMarcus, Denham, Deskins, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Foster, Freeman, Gay, Givhan, Gray, Hancock, Head, Holbrook, Hopkins, Hughes, Imes, Isler, Jones, Kenton, Kidd, King, Kleier, LeMaster, Lindsay, Little, Mann, Mason, May, McBee, McBride, McGill, Morgan, Morris, Nett, O'Brien, Pearl, Rattliff, Richards, B. Richardson, P. Richardson, Romines, Siemens, Siler, Stephens, Tobin, Thomas, J. Turner, R. Turner, Vincent, Wells, White, Wible, Wooden, Wright, Yates. Nays 1-Robinson.

HB 289 was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **HB 289** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 321, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Denham moved the adoption of the Committee Amendment to **HB 321.** Agreed.

Representative Denham moved that **HB 321,** as amended, be passed.

On the roll call the vote was yeas 88-B. Adams, A. S. Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blandford, Blythe, Boatwright, Brinkley, Brown, Bruce, Burnette, Carpenter, Clarke, Craddock, Cyrus, Dawahare, DeMarcus, Denham, Deskins, Dietz, Doss, Dunn, Fitzgerald, Floyd, Foster, Freeman, Gay, Givhan, Gray, Guenthner, Hancock, Hardwick, Head, Holbrook, Holloway, Hopkins, Hughes, Hurst, Imes, Isler, Jones, Kenton, Kidd, King, Kleier, LeMaster, Lindsay, Little, Mann, Mason, May, McBee, McBride, McGill, Morgan, Morris, Nett, O'Brien, Pearl, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Robinson, Romines, Schmidt, Siemens, Siler, Stephens, Tobin, Thomas, J. Turner, R. Turner, Vincent, Wells, White, Wible, Wooden, Wright, Yates. Nays 1-Donnermeyer.

HB 321, as amended, was passed and the title agreed to.

Representative Denham moved that the vote by which **HB 321,** as amended, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative B. Richardson moved that consideration of all Bills and Resolutions remaining in Orders of the Day be deferred and that they retain their position in Orders of the Day. Agreed.

Representative Clarke moved that the rules be suspended for the purpose of making a request in regard to posting of Bills for Committee consideration. Agreed.

Representative Clarke moved that the Committee on Appropriations and Revenue be granted the privilege of waiving the time element in posting **HB 374.** Agreed.

Speaker Kenton vacated the Chair.

Representative Givhan presiding.

Representative Stephens moved that the Rules be suspended for the purpose of Posting of Bills and Resolutions for Consideration. Agreed.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Business Organizations and Professions: **HB 598, HB 556.**

Counties and Special Districts: **HB 627, HB 630.**

Education: **HB 320, HB 267, SCR 14, SB 106, SB 139.**

Labor and Industry: **HB 108, HB 132, HB 568, HB 571.**

Judiciary-Courts: **HB 177.**

Judiciary-Statutes: **SB 58, HB 165.**

The Clerk announced the following Bills and Resolutions have been withdrawn from Committee consideration:

Cities: **HB 39.**

Labor and Industry: **HB 120.**

Representative B. Richardson moved that the rules be suspended for the purpose of making adjournment plans. Agreed.

Representative B. Richardson moved that when the House adjourns today, it do so to convene again on Wednesday, February 25, 1976, at 2:00 p.m., and that it do so by voice vote. Agreed.

Announcements

Representative Hardwick moved that the rules be suspended for the purpose of making requests in regard to voting. Agreed.

Representative Hardwick requested that he be recorded as voting "yea" on **SB 68.**

Representative Blythe requested that he be recorded as voting "yea" instead of "nay" on **HB 128.**

Representative Guenthner requested that he be recorded as voting "yea" on **HB 289.**

Representative Doss filed Floor Amendment No. 1 to the Committee Substitute for **HB 22.**

Representative Robinson filed Floor Amendment No. 1 to **HB 469.**

A special meeting of the Committee on Cities was announced for 9:00 a.m., Friday, February 27, 1976, Room 305.

Adjournment

Representative Fitzgerald moved that the House adjourn. Agreed.

WEDNESDAY, FEBRUARY 25, 1976

THIRTY-NINTH LEGISLATIVE DAY

The House was called to order by Speaker Kenton.

Prayer by Father Carl Schaeffer, Church of the Good Shepherd, Frankfort.

The roll was called. All members present.

Representative Isler moved that absent members be granted leave of absence in accordance with the prevailing rules of the House. Agreed.

Representative Hughes moved that the reading of the Journal of February 24, 1976, be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HCR 65, by Representatives Deskins, Yates, and Burnette: A CONCURRENT RESOLUTION petitioning the Congress of the United States to adopt a resolution submitting an amendment to the Constitution of the United States concerning recall of federal judiciary, initiative and referendum.

HJR 66, by Representatives May and Wells: A JOINT RESOLUTION directing the submission of all proposed long-term cost-sharing contracts between the U.S. Army Corps of Engineers and the Commonwealth of Kentucky to the General Assembly for prior approval.

HCR 67, by Representatives Wooden, Bendl, Kleier, Benson, Blythe, Kidd, McGill, and Richards: A CONCURRENT RESOLUTION memorializing the Congress of the United States to pass an act providing for employment of our nation's youth on public projects.

HCR 68, by Representative Tobin: A CONCURRENT RESOLUTION directing the United States Congress to recognize the rights of the unborn.

HJR 69, by Representative DeFalaise: A JOINT RESOLUTION directing the Department of Transportation to prohibit semi-trailers and trucks having a gross vehicle weight in excess of 6,000 pounds from operating on Kyle's Lane between Interstate 75 and state highway KY 17.

HB 666, by Representative W. Allen: AN ACT relating to instruction in economics in the public schools.

HB 667, by Representative Lindsay: AN ACT relating to strip mining.

HB 668, by Representative Freeman: AN ACT relating to mining.

HB 669, by Representative Hancock: AN ACT relating to property assessments.

HB 670, by Representative Hancock: AN ACT relating to the dissolution of joint planning units and the formation of independent planning units.

HB 671, by Representatives Jones and Deskins: AN ACT relating to relocation assistance by utilities.

HB 672, by Representatives Dietz, Donnermeyer, and Isler: AN ACT relating to regularly paid fire departments.

HB 673, by Representative Fitzgerald: AN ACT relating to standard time in Kentucky.

HB 674, by Representative B. Richardson: AN ACT relating to the allocation and expenditure of coal severance tax.

HB 675, by Representative B. Richardson: AN ACT relating to capital construction.

HB 676, by Representative B. Richardson: AN ACT relating to turnpike authority of Kentucky.

HB 677, by Representative B. Richardson: AN ACT relating to revenue and taxation.

HB 678, by Representative B. Richardson: AN ACT relating to public roads and highways.

HB 679, by Representative Gray: AN ACT relating to public utilities.

HB 680, by Representative Deskins: AN ACT relating to barbering and cosmetology.

HB 681, by Representatives Deskins and Fitzgerald: AN ACT relating to antenuptial agreements.

HB 682, by Representatives Deskins and Gray: AN ACT relating to workmen's compensation.

HB 683, by Representatives Gay and Hancock: AN ACT relating to municipally owned electric utilities.

HB 684, by Representative Gay: AN ACT relating to sales and use taxes.

HB 685, by Representative Gay: AN ACT relating to teacher certification.

HB 686, by Representative Gay: AN ACT relating to public utilities.

HB 687, by Representatives Dietz, Donnermeyer, and Isler: AN ACT relating to pension funds for city police and firemen.

HB 688, by Representative DeFalaise: AN ACT relating to public works in cities.

HB 689, by Representative Bendl: AN ACT relating to policies and procedures for professional service contracting by governmental units.

HB 690, by Representative Stephens: AN ACT relating to dental hygienists.

HB 691, by Representatives DeFalaise and Benson: AN ACT relating to child welfare.

HB 692, by Representatives DeFalaise and Benson: AN ACT relating to voluntary termination of parental rights.

HB 693, by Representatives DeFalaise and Donnermeyer: AN ACT relating to public health.

HB 694, by Representative B. Richardson: AN ACT relating to notaries public.

HB 695, by Representative B. Richardson: AN ACT appropriating money out of the general expenditure fund in the state treasury for the purpose of paying certain claims which have been duly audited and approved according to law but which have not been paid because of the lapsing or insufficiency of former appropriations against which said claims were chargeable.

HB 696, by Representative B. Richardson: AN ACT relating to State Personnel.

HB 697, by Representative B. Richardson: AN ACT relating to strip mining.

HB 698, by Representative B. Richardson: AN ACT relating to required local tax effort.

HB 699, by Representative B. Richardson: AN ACT relating to standardbred horse racing.

HB 700, by Representative B. Richardson: AN ACT relating to the provision of municipal services at the seat of state government.

Report on Enrolled Bills

HB 72 and **HB 219** delivered to the Senate, signed by President. Ordered delivered to the Governor.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Natural Resources: **HB 654.**

Appropriations and Revenue: **HB 635, HB 637, HB 656.**

Banking and Insurance: **HB 655.**

Business Organizations and Professions: **HB 644, HB 651.**

Cities: **HB 663, HB 665.**

Counties and Special Districts: **HB 638, HB 660.**

Education: **HB 640, HB 649, HB 653, HB 658, HJR 64.**

Elections and Constitutional Amendments: **HB 636, HB 648, SR 23.**

Health and Welfare: **HB 641, HB 647, HR 62.**

Highways and Traffic Safety: **HB 657, HB 659.**

Judiciary-Statutes: **HB 642, HB 646, HB 661.**

Labor and Industry: **HB 650, HB 652.**

Public Utilities and Transportation: **HB 662.**

State Government: **HB 639, HB 643, HB 645, HB 664, SB 189.**

Senate Message

Announcing passage of **HB 88, HB 136, HB 339, SB 151, SB 155, SB 162, SB 174, SB 186,** and **SB 209.**

Report of Committees

The Committee on Appropriations and Revenue reported **HB 609** with the expression of opinion that the same should not pass.

The Committee on Appropriations and Revenue reported **SB 91** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 91, AN ACT relating to compensation of General Assembly employes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 6.230 is amended to read as follows:

Employes of the general assembly shall receive a per diem as follows: chief clerk, *fifty dollars ($50.00)* [thirty-eight dollars ($38.00)]; assistant clerk, *forty-two dollars ($42.00)* [thirty-two dollars ($32.00)]; enrolling clerk, *thirty-two dollars ($32.00)* [twenty-six dollars ($26.00)]; sergeant-at-arms, *thirty dollars ($30.00)* [twenty-eight dollars ($28.00)]; doorkeeper, *twenty-four dollars ($24.00)* [twenty-two dollars ($22.00)]; janitors, *twenty dollars ($20.00)* [eighteen dollars ($18.00)]; cloakroom keeper, [twenty dollars ($20.00)] [eighteen dollars ($18.00)]; pages, *eight dollars ($8.00)* [six dollars ($6.00)] each.

Section 2. A new section of KRS Chapter 6 is created to read as follows:
The provisions of this Act relative to the compensation of the employes of the House and Senate shall be effective and shall apply to the present session of the General Assembly and the per diem shall be paid for the one thousand nine hundred and seventy-six session to said employes in the amounts named in section one hereof, beginning January sixth, one thousand nine hundred and seventy-six, provided, that there shall be deducted from the amount due said employes the sum already paid them for services rendered during the one thousand nine hundred and seventy-six session.

Section 3. Whereas, the employes of the House and Senate have rendered faithful and efficient services during the present session of the Legislature and their pay has been entirely inadequate an emergency is therefore declared to exist and this law shall become effective immediately upon its enactment by the General Assembly and approval by the Governor.

The Committee on Business Organizations and Professions reported **HB 349, HB 485,** and **HB 540** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 349, AN ACT relating to the prevention of take-over bids through the purchase of corporate securities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 292 is created to read as follows:
As used in this Act:
(1) "Take-over bid" means the acquisition of or offer to acquire, pursuant to a tender offer or request or invitation for tenders, any equity security of a corporation organized under the laws of this state or having its principal place of business and substantial assets within this state, if after acquisition thereof the offeror would directly or indirectly, be a record or beneficial owner of more than five percent of any class of the issued and outstanding equity securities of such corporation. "Take-over bid" does not include:
(a) Bids made by a dealer for his own account in the ordinary course of his business of buying and selling such security;
(b) An offer to acquire such equity security solely in exchange for other securities of the same company, or the acquisition of such equity security pursuant to such offer, for the sole account of the offeror, in good faith and not for the purpose of avoiding this Act, and not involving any public offering of such other securities within the meaning of the Federal Securities Act of 1933, Ch. 38, Title I, Sec. 4, 48 Stat. 77, as amended;
(c) Any tender offer or request or invitation for tenders to which the target company consents, by action of its board of directors, if such board of directors has recommended acceptance thereof to shareholders and the terms thereof, including any inducements to officers or directors which are not made available to all shareholders, have been furnished to shareholders.
(2) "Offeror" means a person who makes, or in any way participates or aids in making, a take-over bid, and includes persons acting jointly or in concert, or who intend to exercise jointly or in concert any voting rights attached to the securities for which such take-over bid is made.
(3) "Offeree" means the beneficial or record owner of securities which an offeror acquires or offers to acquire in connection with a take-over bid.
(4) "Target company" means a corporation whose securities are or are to be the subject of a take-over bid.
(5) "Equity security" means any shares or similar securities, or any securities convertible into such securities, or carrying any warrant or right to subscribe to or purchase such securities, or any such warrant or right, or any other security which, for the protection of security holders, is treated as an equity security pursuant to regulations of the director of securities.

Section 2. A new section of KRS Chapter 292 is created to read as follows:
(1) No offeror shall make a take-over bid unless at least twenty days prior thereto he announces publicly the terms of the proposed take-over bid and files with the director of securities and the target

company copies of all information required by subsection (3) of this Section, and either:

(a) Within ten days following such filing no hearing is ordered by the director or requested by the target company;

(b) A hearing is requested by the target company within such time but the director finds that no cause for hearing exists;

(c) A hearing is ordered within such time and upon such hearing the director adjudicates that the offeror proposes to make fair, full, and effective disclosure to offerees of all information material to a decision to accept or reject the offer.

(2) No offeror shall make a take-over bid if he owns five percent or more of the issued and outstanding equity securities of any class of the target company, any of which were purchased within one year before the proposed take-over bid, and the offeror, before making any such purchase, or before the thirtieth day following the effective date of this Act, whichever is later, failed to publicly announce his intention to gain control of the target company, or otherwise failed to make fair, full, and effective disclosure of such intention to the persons from whom he acquired such securities.

(3) The information to be filed with the director of securities and the target company pursuant to Section 2 (1) of this Act shall include:

(a) Copies of all prospectuses, brochures, advertisements, circulars, letters, or other matter by means of which the offeror proposes to disclose to offerees all information material to a decision to accept or reject the offer;

(b) The identity and background of all persons on whose behalf the acquisition of any equity security of the target company has been or is to be effected;

(c) The source and amount of funds or other consideration used or to be used in acquiring any equity security, including a statement describing any securities, other than the existing capital stock or long term debt of the offeror, which are being offered in exchange for the equity securities of the target company;

(d) A statement of any plans or proposals which the offeror, upon gaining control, may have to liquidate the target company, sell its assets, effect a merger or consolidation of it, or make any other major change in its business, corporate structure, management personnel, or policies of employment;

(e) The number of shares of any equity security of the target company of which each offeror is beneficial or record owner or has a right to acquire, directly or indirectly, together with the name and address of each person defined in this Act as an offeror;

(f) Particulars as to any contracts, arrangements, or understandings to which an offeror is party with respect to any equity security of the target company, including without limitation transfers of any equity security, joint ventures, loan or option arrangements, puts and calls, guarantees of loan, guarantees against loss, guarantees of profits, division of losses or profits, or the giving or withholding of proxies, naming the persons with whom such contracts, arrangements, or understandings have been entered into;

(g) Complete information on the organization and operations of offeror, including without limitation the year of organization, form of organization, jurisdiction in which it is organized, a description of each class of the offeror's capital stock and of its long term debt, financial statements for the current period and for the three most recent annual accounting periods, a brief description of the location and general character of the principal physical properties of the offeror and its subsidiaries, a description of pending legal proceedings other than routine litigation to which the offeror or any of its subsidiaries is a party or of which any of their property is the subject, a brief description of the business done and projected by the offeror and its subsidiaries and the general development of such business over the past five years, the names of all directors and executive officers together with biographical summaries of each for the preceding five years to date, and the approximate amount of any material interest, direct or indirect, of any of the directors or officers in any material transaction during the past three years, or in any proposed material transactions, to which the offeror of any of its subsidiaries was or is to be a party;

(h) Such other and further documents, exhibits, data, and information as may be required by regulations of the division of securities, or as may be necessary to make fair, full, and effective disclosure to offerees of all information material to a decision to accept or reject the offer.

Section 3. A new section of KRS Chapter 292 is created to read as follows:

Any hearing pursuant to this Act shall be held within forty days of the date a filing is made pursuant to Section 2 (1) of this Act. Adjudications made pursuant to this Act shall be made within sixty days after such filing and pursuant to KRS 292.490. Upon filing an application with the director of securities for a hearing under this section, the target company shall pay to the director a fee of two hundred fifty dollars, and shall deposit with the director such sum, not exceeding seven hundred fifty dollars, as the director may require to defray the costs of such hearing and any investigation which the director may make in connection therewith. If upon hearing the director finds that the take-over bid is in violation of Chapter 292 of KRS or that effective provision is not made for fair and full disclosure to offerees of all information material to a decision to accept or reject the offer, it shall so adjudicate. If it finds that the take-over bid would comply with this Act if amended in certain respects, it shall so adjudicate. If it finds that the take-over bid is not in violation of Chapter 292 of KRS and that effective provision is made for fair and full disclosure to offerees of all information material to a decision to accept or reject the offer, it shall so adjudicate.

Section 4. A new section of KRS Chapter 292 is created to read as follows:
No take-over bid shall be made unless KRS Chapter 292 has been complied with, and no offeror shall make a take-over bid which is not made to all holders residing in this state of the equity security that is the subject of such take-over bid, or which is not made to such holders on the same terms as such take-over bid is made to holders of such equity security not residing in this state. If an offeror makes a tender offer or request or invitation for tenders for less than all the outstanding equity securities of a class, and if a greater number of securities is deposited pursuant thereto within ten days after copies of the offer or request or invitation for tenders are first published or sent or given to security holders than such offeror is bound or willing to take up and pay for, the securities shall be taken up as nearly as may be pro rata, disregarding fractions, according to the number of securities deposited by each offeree. The preceding sentence applies to securities deposited within ten days after notice of an increase in the consideration offered to security holders, as described in the next sentence, is first published or sent or given to security holders. If the terms of a take-over bid are changed before its expiration by increasing the consideration offered to offerees, the offeror shall pay the increased consideration for all equity securities taken up, whether the same are deposited or taken up before or after the change in the terms of the take-over bid.

Section 5. A new section of KRS Chapter 292 is created to read as follows:
If the offeror or the target company is a banking corporation subject to regulation by the director of banks, a building and loan association subject to regulation by the director of building and loan associations, or a public utility corporation subject to regulation by the public utilities commission, the director of securities shall forthwith, upon receipt of the filing required under Section 2 of this Act, furnish a copy of such filing to the regulatory body having jurisdiction over the offeror or target company.

Section 6. A new section of KRS Chapter 292 is created to read as follows:
An offeror is subject to the liabilities and penalties applicable to a seller, and an offeree is entitled to the remedies applicable to a purchaser, as set forth in KRS 292.991.

Section 7. A new section of KRS Chapter 292 is created to read as follows:
The director of securities may, pursuant to KRS 292.500, prescribe reasonable rules and regulations:

(1) Defining fraudulent, evasive, deceptive, or grossly unfair practices in connection with take-over bids, and the terms used in this Act;

(2) Exempting from this Act take-over bids not made for the purpose of, and not having the effect of, changing or influencing the control of a target company;

(3) Covering such other matters as are necessary to give effect to this Act.

Section 8. A new section of KRS Chapter 292 is created to read as follows:
If the offeror or a target company is an insurance company subject to regulation under Chapter 304 of KRS, the commissioner shall for all purposes of this Act be substituted for the director of securities. This section shall not be construed to limit or modify in any way any responsibility, authority, power or jurisdiction of the director of securities or the commissioner pursuant to any other section of KRS.

Section 9. A new section of KRS Chapter 292 is created to read as follows:
This Act does not apply when:

(1) The offeror or the target company is a public utility or a public utility holding company as defined in the Federal Public Utility Holding Act of 1935, Ch. 687, Title I, Sec. 2, 49 Stat. 804, as amended, and the take-over bid is subject to approval by the appropriate federal agency as provided in such act;

(2) The offeror or the target company is a bank or a bank holding company as subject to the Bank Holding Company Act of 1956, 70 Stat. 133, and subsequent amendments thereto, and the take-over bid is subject to approval by the appropriate federal agency as provided in such act;

(3) The offeror or the target company is a savings and loan holding company as defined in the Savings and Loan Holding Company Amendments of 1967, Sec. 2, 82 Stat. 5, as amended, and the take-over bid is subject to approval by the appropriate federal agency as provided in such act;

(4) The offeror and the target company are banks and the offer is part of a merger transaction subject to approval by appropriate federal supervisory authorities.

Section 10. This Act shall become effective July 1, 1976.

HB 485, AN ACT relating to cemeteries and mausoleums.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 307 IS CREATED TO READ AS FOLLOWS:
This Act may be referred to as the Kentucky Cemetery Law.

SECTION 2. A NEW SECTION OF KRS CHAPTER 307 IS CREATED TO READ AS FOLLOWS:
As used in this Act, unless the context requires otherwise:

(1) "Person" means an individual, corporation, partnership, joint venture, association, business trust, or any other form of business organization.

(2) "Remains" means the bodies of deceased persons, in whatever stage of decomposition, and cremated remains.

(3) "Cemetery" means any one or combination of more than one of the following in a place used or to be used and dedicated or designated for such purposes:

(a) A burial park, for earth interment.
(b) A mausoleum, for entombment.
(c) A columbarium, for inurnment.

(4) "Mausoleum" means a building or structure substantially exposed above ground used or intended to be used for the entombment of human remains, which is sold or offered for sale to the public.

(5) "Columbarium" means a structure or building substantially exposed above ground intended to be used for the inurnment of cremated remains and sold or offered for sale to the public.

(6) "Columbarium niche" means an inurnment space in a Columbarium as defined herein.

(7) "Cemetery company" means any person, except a religious society, municipal corporation or fraternal burial association, that conducts the business of a cemetery.

(8) "Grave space" means a space of ground in a cemetery intended to be used for the interment in the ground of the remains of one human being.

(9) "Department" means the department of banking and securities.

(10) "Underground crypt" means a single unit entombment space in preplaced chambers below ground and also known as lawn crypt, westminister or belowground crypt.

(11) "Bank of underground crypts" means any construction unit of twenty or more underground crypts designed as a part of a belowground crypt program, whether physically connected or not, having a common drainage system.

(12) "Mausoleum crypt" means an entombment space in a mausoleum as defined herein.

(13) "Cemetery merchandise" means urns, memorials, monuments, markers, vases, foundations, memorial bases, and other similar personal property commonly sold by or used in cemeteries.

SECTION 3. A NEW SECTION OF KRS CHAPTER 307 IS CREATED TO READ AS FOLLOWS:

(1) Every cemetery company shall register with the department at least thirty days prior to commencing to do business. Every cemetery in existence as of the effective date of this Act shall register within one hundred eighty days thereafter. Such registration shall be on forms provided by the department and shall contain at least the following information.

(a) The name and location of the cemetery;
(b) The size and type;
(c) The names, addresses and other relative information concerning the owners, officers and directors;
(d) Identification, location and size of perpetual care and merchandise trust funds;
(e) Types of services and merchandise sold and whether at need or pre-need.

(2) Every cemetery company shall, within sixty days of any material change of any item required to be reported hereunder, notify the department of such change.

(3) Every cemetery company shall pay a filing fee and an annual renewal fee of $50.00.

SECTION 4. A NEW SECTION OF KRS CHAPTER 307 IS CREATED TO READ AS FOLLOWS:
Every cemetery company shall maintain a record of every burial in the cemetery, showing the date of burial, name of person buried and identification of the burial space, mausoleum crypt or columbarium niche in which the burial was made. All sales, trust fund, and accounting records of the cemetery company shall be available at the cemetery company's principal place of business in this state and shall be readily available at reasonable times for examination by an authorized representative of the department.

SECTION 5. A NEW SECTION OF KRS CHAPTER 307 IS CREATED TO READ AS FOLLOWS:

(1) No cemetery company shall establish, or operate if already established, a cemetery unless it shall first provide for the future care and maintenance of such cemetery, and to accomplish this purpose shall cause to be established in a bank authorized by law to administer trust funds an irrevocable trust fund to be known as a perpetual care and maintenance fund. The income of such funds shall be used solely for the general care, maintenance, and embellishment of the cemetery.

(2) (a) Every cemetery company shall place the following amounts into the perpetual care and maintenance fund within forty-five days of receipt of the final payment of each sale which occurs or contract of sale entered into after the effective date of this Act.

(i) Twenty percent of the gross selling price of each grave space, with a minimum of twenty dollars per grave space.

(ii) Underground crypt, 5% of the gross selling price with a minimum of twenty-five dollars per crypt.

(iii) Mausoleum crypt, 5% of the gross selling price with a minimum of fifty dollars per mausoleum crypt.

(iv) Columbarium niche, 5% of the gross selling price with a minimum of fifteen dollars per niche.

(b) For the purposes of this section, "gross selling price" shall not include interest, carrying charges or finance charges.

(c) Every cemetery company hereinafter established shall create and maintain a perpetual care and maintenance fund, depositing therein an initial deposit as listed below, and shall submit proof thereof to the department prior to the offering for sale of any burial rights. Any payment required under subparagraph (a) of this paragraph shall be credited against the initial deposit until the required sum has been reached:

(i) In counties of fewer than 50,000 persons, $10,000;

(ii) In counties of 50,000 to 99,999 persons, $15,000;

(iii) In counties of 100,000 or more persons, $25,000.

SECTION 6. A NEW SECTION OF KRS CHAPTER 307 IS CREATED TO READ AS FOLLOWS:

Within 105 days after the end of the fiscal year of the cemetery company, the trustee and the cemetery shall furnish financial reports with respect to the perpetual care and maintenance fund and merchandise trust fund to the department on forms provided by the department. Such reports shall not be available to the general public and shall be used only for the lawful purposes of the department.

SECTION 7. A NEW SECTION OF KRS CHAPTER 307 IS CREATED TO READ AS FOLLOWS:

(1) Whenever any person, except a religious society, municipal corporation, fraternal or non-profit burial association, shall accept money in connection with a sale, a contract for sale or a series of contracts or agreements for the sale of cemetery merchandise, that person shall deposit in a trust fund established for that purpose with a bank or trust company authorized by law to administer trust funds, within ninety days following the close of that person's fiscal year an amount equal to the procurement cost of the cemetery merchandise plus 10 percent of that cost, divided by a denominator equal to the number of years of the term of the sale contract; provided, however, any sale, contract or agreement for the sale of cemetery merchandise, the terms of which require payment in full within twenty-four months or less and delivery of the cemetery merchandise within ninety days of the final payment thereon shall be excluded from the requirements of this section.

$$\frac{\text{procurement cost} + (.10 \text{ x procurement cost})}{\text{number of years of contract}} = \begin{matrix}\text{Trust}\\ \text{Deposit}\end{matrix}$$

(2) In any year in which any cemetery merchandise shall be paid for in full, the person making the sale shall deposit in the trust fund an amount which, when added to previous deposits, is sufficient to equal 110 percent of procurement cost as computed in the year in which such final payment is received.

(3) The person making the sale shall determine and substantiate by wholesale price list of a manufacturer or supplier of the cemetery merchandise sold by that person, or by a cost analysis of cemetery merchandise manufactured by that person, which cost in any case, shall be adjusted and verified annually to the department, to reflect any change in procurement cost.

(4) When the person making the sale shall certify in detail to the trustee that an item of cemetery merchandise has been delivered to the purchaser, the trustee shall disburse the then procurement cost of that item to the person making the sale.

(5) For purposes of this section, procurement cost shall be determined to be the cost of the item of cemetery merchandise as of January 1 of the year in which the sale occurs or in which the contract for sale is entered into, and for the purposes of paragraph 1 of this section, shall be the basis for the annual deposits required, except that in the year in which final payment is received upon any contract for sale, the person making the sale shall deposit an amount sufficient, when added to previous deposits, to equal the procurement cost in that year plus 10 percent of that cost.

(6) The principal and net income deposited to the merchandise trust fund shall remain therein and be reinvested and compounded.

(7) In any year in which the total of funds held in a merchandise trust fund shall exceed procurement cost plus 10% of such cost of all items of cemetery merchandise sold and undelivered, the trustee shall, upon written request of the person making the sales, disburse to such person such excess funds to the extent only of interest earned on such fund.

(8) Every trustee under this section shall be authorized to invest the funds deposited with him as a prudent man and in accordance with the powers, duties and authority conferred upon such trustee under the laws of Kentucky.

(9) If for any reason a person who has entered into a contract for the sale of cemetery merchandise and has made the deposits to the trust fund herein required to be made cannot or does not provide the cemetery merchandise called for by the contract after request in writing to do so, the purchaser or his heirs or assigns or duly authorized representative shall have the right to provide the cemetery merchandise and shall be entitled to receive the deposit to the credit of that particular contract upon delivery of the cemetery merchandise. Written instruction to the trustee to refund the amount of money on deposit, or an affidavit by either the purchaser or one of his heirs or assigns or duly authorized representative, stating that the cemetery merchandise was not provided shall be sufficient authority for the trustee to make refund of the deposit moneys to the person submitting the affidavit. The trustee shall not be held responsible for any such refunds made on account of the person's written direction or an affidavit submitted in accord with this section. However, nothing herein contained shall relieve any person from any liability for nonperformance of the contract terms. Except, however, in the event such person cannot deliver the cemetery merchandise sold because of a national emergency, the provisions of this paragraph shall not apply.

(10) The person creating the fund shall, within 105 days following the close of his fiscal year, file a financial report of the merchandise trust fund with the department, setting forth the principal, the investments and payments made, and the income earned and disbursed.

SECTION 8. A NEW SECTION OF KRS CHAPTER 307 IS CREATED TO READ AS FOLLOWS:

Whenever any contract for sale shall be entered into in which items of cemetery merchandise and rights to interment, inurnment or entombment are included, without allocation of the gross sale price among the items sold, the application of payments received under the contract shall be allocated, first to the right to interment, inurnment or entombment, second to items of cemetery merchandise relating to memorialization and third, to items of cemetery merchandise relating to the disposition of the remains of a dead human being, unless some other allocation is clearly provided in the contract.

SECTION 9. A NEW SECTION OF KRS CHAPTER 307 IS CREATED TO READ AS FOLLOWS:

(1) No person, except a cemetery company or a religious society, municipal corporation or fraternal burial association shall engage in the business of the construction for sale, sale reservation or contract for sale or otherwise commercially deal in the development or sale of mausoleum or underground crypts or columbariums.

(2) Every person intending to engage in the sale of a mausoleum crypt, underground crypt, or columbarium niche prior to the completion of the construction thereof, shall give notice in writing to the department of the commencement of such sale at least thirty days prior thereto.

(3) Every person engaged in the sale of a mausoleum crypt, underground crypt or columbarium niche shall commence construction thereof within thirty-six months of the date of such sale and shall complete such construction within seventy-two months of the date of such sale. Failure to so commence or complete construction shall entitle any purchaser, on demand, to recover all sums paid on the purchase price, plus interest thereon at the rate of six percent per annum; provided, however, that any delay caused by strike, shortage of materials, civil disorder, natural disaster or any like occurrence beyond the control of such person shall extend the time of such commencement and completion by the length of such delay.

SECTION 10. A NEW SECTION OF KRS CHAPTER 307 IS CREATED TO READ AS FOLLOWS:

Every person offering for sale any mausoleum crypt, underground crypt or columbarium niche shall provide facilities for temporary entombment or inurnment at the cemetery in which the crypt or niche purchased is to be located.

SECTION 11. A NEW SECTION OF KRS CHAPTER 307 IS CREATED TO READ AS FOLLOWS:

Any person who wilfully violates any provision of this chapter shall be fined not less than $100 nor more than $5,000 for each offense.

Section 12. KRS Sections 307.010, 307.020, 307.030, 307.040, 307.050, 307.060, 307.070, 307.080, 307.090, and 307.990 of Kentucky Revised Statutes are hereby repealed.

HB 540, AN ACT relating to social workers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 335.070 is amended to read as follows:

(1) The board shall administer and enforce the provisions of KRS 335.010 to 335.160 and 335.990, and may adopt rules and regulations consistent with its provisions, including a code of ethical practice for Certified Social Workers and Social Workers.

(2) The board shall review and act upon applications for licensure at least twice each year, and shall regulate the renewal of licenses.

(3) The board may conduct hearings on charges calling for the denial, revocation or suspension of a license, shall adopt rules for the conduct of the hearings, and shall cause the prosecution of all persons who violate any provisions of KRS 335.010 to 335.160 and 335.990, or any rule or regulation promulgated pursuant to its provisions.

(4) The board may sue and be sued in its own name.

(5) The board may employ any other persons it deems necessary to carry on the work of the board, and shall define their duties and fix their compensation.

(6) The board shall maintain a register of Certified Social Workers, Social Workers, and licensees certified for private practice. The register shall be a public record.

(7) The board shall keep a complete record of all of its proceedings.

(8) The board shall set by regulation a fee schedule for examinations, said fees to be sufficient to cover the cost of preparation, administration and grading of the examinations, but not to exceed seventy-five dollars ($75.00) for any one examination.

Section 2. KRS 335.080 is amended to read as follows:

(1) The board shall issue a license as "Certified Social Worker" to an applicant who meets the following requirements:

(a) Is at least eighteen (18) years of age;

(b) Is a person of good moral character;

(c) Has received a master's degree or doctorate degree in social work from an educational institution approved by the board;

(d) Has paid to the board an examination fee fixed by the board [, the fee not to exceed twenty-five dollars ($25)];

(e) Has passed an examination prepared by the board;

(f) Has not within the preceding six months failed to pass an examination given by the board; and

(g) Has paid an initial license fee fixed by the board, the fee not to exceed thirty dollars ($30).

(2) The license shall be displayed in the licensee's principal place of practice, and shall entitle the licensee to hold himself forth to the public as providing services as authorized by KRS 335.010 to 335.160 and 335.990.

Section 3. KRS 335.090 is amended to read as follows:

(1) The board shall issue a license as "Social Worker" to an applicant who meets the following requirements:

(a) Is at least eighteen (18) years of age;

(b) Is a person of good moral character;

(c) Has received a baccalaureate degree in a social work or social welfare program approved by the board; or a baccalaureate degree in another field, two years experience in a social work capacity and completion of courses equivalent to a social work or social welfare program approved by the board;

(d) Has paid to the board an examination fee fixed by the board [, the fee not to exceed ten dollars ($10)]
;

(e) Has passed an examination prepared by the board;

(f) Has not within the preceding six months failed to pass an examination given by the board; and

(g) Has paid an initial license fee fixed by the board, the fee not to exceed thirty dollars ($30).

(2) The license shall be displayed in the licensee's principal place of practice, and shall entitle the licensee to hold himself forth to the public as providing services an authorized by KRS 335.010 to 335.160 and 335.990.

Section 4. KRS 335.100 is amended to read as follows:

(1) After one year from June 21, 1974, no person shall engage in the independent practice of social work unless he meets the following requirements:

(a) Is licensed under KRS 335.010 to 335.160 and 335.990 as a Certified Social Worker;

(b) Has had a minimum of two (2) years of full time postmaster's experience, consisting of at least thirty (30) hours per week, or three (3) years of part time, consisting of at least twenty (20) hours per week, postmaster's degree experience acceptable to the board in the use of speciality methods and measures to be employed in independent practice, the experience having been acquired under appropriate supervision.

(c) Has paid to the board an examination fee fixed by the board [, the fee not to exceed twenty-five dollars ($25)];

(d) Has passed an examination prepared by the board for this purpose;

(e) Has not within the preceding six months failed to pass an examination given by the board.

(2) The board shall issue a certificate of qualification for independent practice stating area or areas of speciality certification. This certificate shall be displayed with the license in the licensee's principal place of practice.

(3) Areas of speciality certification shall include "Clinical Social Work" and others as defined by the board. Any use of the titles of speciality certification are restricted to persons so qualified under this section.

Section 5. KRS 335.110 is repealed.

Section 6. KRS 335.120 is amended to read as follows:

The board may grant the appropriate license without examination to any person who at the time of application *holds a valid license from another state and who meets the current minimum requirements for licensure in Kentucky provided a reciprocal agreement exists between the states* [is licensed in a state which has standards equivalent to those established by the Board of Examiners of Social Work of Kentucky].

SECTION 7. A NEW SECTION OF KRS CHAPTER 335 IS CREATED TO READ AS FOLLOWS:

No licensee holding a certificate of qualification for independent practice of clinical social work may disclose any information he may have acquired from persons consulting him in his psychotherapeutic capacity except:

(1) With the written consent of the person, or, in the case of death or disability, of his authorized representative, or the beneficiary of an insurance policy on his life, health, or physical condition;

(2) A communication that reveals the contemplation of a crime or a harmful act;

(3) When the communication indicates that the person was the victim or subject of a crime, the licensee shall be required to testify fully when properly subpoenaed by a court of competent jurisdiction in any examination, trial, or other proceeding in which the commission of such a crime is the subject of inquiry;

(4) Communications made in the course of a social work examination ordered by a court of competent jurisdiction when the client has been informed before the examination that any communications made during the examination would not be privileged;

(5) When the licensee is a defendant in either a civil or criminal action;

(6) When the licensee is an employe of the commonwealth of Kentucky and is performing activities solely within the confines or under the jurisdiction of the Department for Human Resources or its successor organization; and

(7) If the licensee has reasonable grounds to suspect that a child has been abused or neglected, he shall report such information in compliance with provisions of KRS 199.335.

The Committee on Cities reported **HB 31,** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 31, AN ACT relating to public transportation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 96A is created to read as follows:

As used in this Act, unless the context otherwise requires:

(1) "Municipality" means any county, city, urban county and municipal corporation of any and every class in the Commonwealth of Kentucky;

(2) "State" means the Commonwealth;

(3) "Regional transit authority" or "authority" means a regional transit authority created pursuant to this chapter;

(4) "Public transportation" means the local transportation of persons and their baggage.

(5) "Board" means the board of a regional transit authority;

(6) "Governing body" means, in the case of a county, the fiscal court thereof; and as to a city or urban county, the legislative body thereof, however the same may be denominated according to law;

(7) "Transit area" means the geographic area which may be encompassed from time to time within the lawful boundaries of the municipalities as may be involved in the creation and establishment of an authority;

(8) "Joint service agreement" means agreements between or among the authority and any common carrier or freight forwarder, any unit of local, state or federal government relating to property, services, facilities, rates, fares, classifications, divisions, allowances or charges or rules and regulations pertaining thereto, for or in connection with or incidental to transportation in part or upon railroad, omnibus, marine or aviation facilities located within or outside the district;

(9) "Member" means the municipality which, in combination with another member or members, comprises the authority.

Section 2. A new section of KRS Chapter 96A shall be created to read as follows:

There shall be eight Regional Transit Authorities which shall be designated as follows:

(1) Purchase Regional Transit Authority: Ballard, Carlisle, Hickman, Fulton, McCracken, Graves, Marshall, Calloway and Livingston Counties.

(2) Pennyrile Regional Transit Authority: Crittenden, Union, Henderson, Daviess, Hancock, Ohio, McLean, Hopkins, Caldwell, Lyon, Trigg, Christian, Todd and Muhlenberg Counties.

(3) Cave Regional Transit Authority: Grayson, Butler, Logan, Simpson, Allen, Warren, Barren, Edmonson, Breckinridge, Monroe, Metcalfe, Green, Taylor, Adair and Cumberland Counties.

(4) Ohio River Regional Transit Authority: Jefferson, Bullitt, Meade, Hardin, Larue, Marion, Washington, Nelson, Spencer, Shelby, Oldham and Hart Counties.

(5) Bluegrass Regional Transit Authority: Fayette, Franklin, Henry, Owen, Anderson, Scott, Harrison, Robertson, Nicholas, Bourbon, Bath, Montgomery, Clark, Powell, Estill, Madison, Garrard, Boyle, Mercer, Woodford and Jessamine Counties.

(6) Northern Kentucky Regional Transit Authority: Trimble, Carroll, Gallatin, Boone, Kenton, Campbell, Bracken, Pendleton and Grant Counties.

(7) Eastern Kentucky Regional Transit Authority: Mason, Lewis, Greenup, Boyd, Carter, Lawrence, Elliott, Rowan, Fleming, Menifee, Wolfe, Morgan, Lee, Johnson and Martin Counties.

(8) Appalachian Corridor Regional Transit Authority: Casey, Lincoln, Pulaski, Rockcastle, Jackson, Owsley, Breathitt, Knott, Magoffin, Floyd, Pike, Letcher, Harlan, Bell, Perry, Leslie, Clay, Knox, Whitley, McCreary, Wayne, Clinton, Russell and Laurel Counties.

Section 3. A new section of KRS Chapter 96A is created to read as follows:

The Regional Transit Authority shall, on a continuing basis, determine the level, nature and kind of public transportation which should be provided for the region. The authority shall draw up both long term and short term plans for public transportation within the region and submit these plans for approval to the Kentucky Department of Transportation. These plans shall be subject to annual review and revision by the authority with approval of the department. The plan shall set forth the standards of service which the public may expect; plans for coordinating routes and service of various transportation agencies; the anticipated expense of providing public transportation at standards of service under existing and alternative operating programs; the nature, location, and expense of anticipated capital improvements exceeding $100,000 by specific item and by fiscal year; and such demographic and other data developed by planning and other related agencies, as the authority considers pertinent to the authority's decisions as to levels and nature of service, including patterns of population, growth, commercial and residential development projections, environmental factors, and the availability of alternative modes of transportation.

Section 4. A new section of KRS Chapter 96A is created to read as follows:

There shall be an advisory board to each Regional Transit Authority consisting of one (1) representative, who shall be called a director, for each member of the authority, appointed by the chief executive officer of each local government unit which becomes a member, and two (2) representatives-at-large elected by the other board members. Each director shall serve a three (3) year term and may succeed himself for one (1) additional term.

The board shall elect one (1) of its directors chairman and one (1) vice-chairman. A majority of the directors shall constitute a quorum. The board shall adopt such rules as it may deem necessary and proper for the government of its own proceedings, and shall keep a record of such proceedings.

Directors of the board shall be entitled to receive traveling expenses incurred in connection with the business of the authority but they shall receive no salaries or other remuneration.

Section 5. A new section of KRS Chapter 96A is created to read as follows:

Each of the municipalities, urban county, or counties that elect to become participating members of the Regional Transit Authority which encompasses their geographic location may do so by resolution adopted by a majority of the membership of its governing body and such election by a municipality or county shall take effect upon the filing of a duly certified copy of such resolution with the authority and with the secretary of state.

Section 6. A new section of KRS Chapter 96A is created to read as follows:

The board of directors of the Regional Transit Authority shall have the following powers:

(1) To contract and be contracted with;

(2) To sue and be sued;

(3) To establish, alter, and enforce rules and regulations in furtherance of the purposes of its creation; including but not limited to rules and regulations governing the conduct and safety of the public as it may deem necessary, convenient, or desirable for the use and operation of any transportation facility and related services operated by the authority or under contract, lease, or other arrangement, including joint service arrangements with the authority. In the case of any conflict between any such rule or regulation of the authority governing the conduct or safety of the public and any local law, ordinance, rule or regulation, such rule or regulation of the authority shall prevail. Any person who violates any of these regulations shall be fined not less than fifty dollars ($50) nor more than two hundred fifty dollars ($250) and violations shall be tried in the appropriate court as if the offense had occurred for the violation of a local ordinance.

(4) To adopt and use a corporate seal;

(5) To have and exercise, generally, all the powers of private corporations as enumerated in KRS 271A.020;

(6) To fix, alter, charge and establish rates, fares, and other charges for the services and facilities within the area, which rates, fees, and charges shall be equitable and just, subject to approval when necessary by the Department of Transportation;

(7) To borrow money and issue evidence of indebtedness and to accept gifts and grants or loans of money or other property;

(8) To provide for the insurance of any property or operation of the authority against any risk or hazard;

(9) To invest any funds held in reserve or sinking funds, or any monies not required for immediate use or disbursement at the discretion of the authority, in obligations, the principal and interest of which are guaranteed by the state or United States Government.

(10) To provide charter service, both inter- and intrastate, in the event that private motor carriers are unable or unwilling to do so.

Section 7. A new section of KRS Chapter 96A is created to read as follows:

The authority created and established by this Act is granted the authority to purchase, own, or operate, or provide for the operation of, transportation facilities; to contract for transit services, including acquisition, operation and extension of existing public transit systems; to exercise power of eminent domain limited to right-of-way and contiguous transportation facility acquisition and subject to any further limitations set forth in the authority charter; to conduct studies; and to contract with other governmental agencies, private companies and individuals. However, no public transportation system shall be purchased, owned, or operated that would be in the continued business of competing with existing private charter transportation companies for charter business, nor shall a new system be implemented where an existing transportation system of the same mode is operating a comparable service without first purchasing said existing system through negotiation.

Section 8. A new section of KRS Chapter 96A is created to read as follows:

The authority shall study public transportation problems and developments; encourage experimentation in developing new public transportation technology, financing methods, and management procedures; conduct, in cooperation with other public and private agencies, studies and demonstration and development projects to test and develop methods for improving public transportation, for reducing its costs to users or for increasing public use; and conduct, sponsor, and participate in other studies and experiments useful to achieving these purposes.

Section 9. A new section of KRS Chapter 96A is created to read as follows:

The authority shall take all feasible and prudent steps to minimize environmental disruption and pollution arising from its activities or from public transportation activities of transportation agencies acting pursuant to purchase of service agreements.

Section 10. A new section of KRS Chapter 96A is created to read as follows:

The authority shall provide for and encourage participation by the public in the development and review of public transportation policy, and in the process by which major decisions significantly affecting the provision of public transportation are made.

The authority shall hold such public hearings as may be deemed appropriate to the performance of any of the functions of the authority; including those concerning the construction or acquisition of any major public transportation facility, and the major extension of or addition to services provided by the authority or by any transportation agency pursuant to a purchase of service agreement with the authority.

Section 11. A new section of KRS Chapter 96A is created to read as follows:

The authority shall file in the office of the Secretary of the Kentucky Department of Transportation and each county, urban county or municipality of the Regional Transit Authority an annual budget consisting of projected operating revenues and expenditures for the next fiscal year. The authority shall also file in the Office of the Secretary an annual report, after the close of each of the authority's fiscal years, which shall be open to public inspection.

Section 12. KRS 160.305 is amended to read as follows:

(1) *The Regional Transit Authority* [The department for human resources] may enter into a contract with the local board of education of any school district in the commonwealth for the use of school buses to transport persons eligible for transportation services at times when the buses are not needed to transport students to or from school or school events. Persons eligible for such transportation services shall be:

(a) Sixty-two (62) years of age or older;

(b) Physically or mentally handicapped; [or]

(c) Any other person designated by the *Regional Transit Authority* [department for human resources] as appropriate for such transportation services *or;* [.]

(d) Any fare-paying passenger.

(2) Before such a contract is entered into, the *Regional Transit Authority* [department for human resources] shall formulate a plan for the use of school buses for such purposes and shall submit it to the local board of education for its approval or disapproval. The plan for the use of school buses for such transportation purposes shall include routes, schedules, cost and any other matters deemed necessary by both parties.

(3) The cost of transporting persons eligible under the provisions of subsection (1) of this section shall be borne by the *Regional Transit Authority* [department for human resources].

Section 13. A new section of KRS Chapter 96A is created to read as follows:

The Kentucky Department of Transportation shall participate in the federal capital grant program administered under the Urban Mass Transportation Administration. The Kentucky Department of Transportation shall furnish half of the local government's share of the funding for each project.

Section 14. A new section of KRS Chapter 96A is created to read as follows:

Any local government unit or Regional Transit Authority may apply to the Kentucky Department of Transportation for matching funding in order to participate in the federal capital grant administered by the Urban Mass Transportation Administration. This application shall provide such background information and statistics concerning the project as the department shall deem necessary.

Section 15. KRS 138.662 is amended to read as follows:

(1) City and suburban bus companies operating under a certificate of convenience and necessity issued pursuant to KRS Chapter 281 *and all regional transit authority vehicles shall be exempted from the KRS Chapter 138 taxes paid on motor fuels* [shall be entitled to a refund of seven-ninths of the amount of KRS Chapter 138 taxes paid on motor fuels] used in their regularly scheduled operations in Kentucky.

(2) No person shall be entitled to *an exemption* [a refund] hereunder unless he shall have first filed with the Department of Revenue a bond issued by a surety company authorized to do business in Kentucky in an amount of not less than one thousand dollars nor more than five thousand dollars to be determined by the Department of Revenue, conditioned upon faithful compliance with this section and upon the payment to the Commonwealth of any *exemptions* [refunds] to which he was not entitled.

(3) *Applications for exemptions shall be administered by the department of revenue.* [Applications for refund shall on or before the last day of each month following the quarter, September 30, December 31, March 31, and June 30, be made to the Department of Revenue on forms and in the manner prescribed by it for the refund of tax paid on motor fuel used by buses during the quarter. Each application for a refund shall show the number of gallons of motor fuel purchased during the quarter for use in buses; the date and quantity of each purchase; the vendor from whom such fuel was purchased; the number of gallons on which refund is

claimed; and such other information as the Department of Revenue may require. The application shall be made under oath.]

(4) The Department of Revenue shall audit the application and make such other investigation as it deems necessary to determine whether it constitutes a proper *exemption* [claim]. [When the Department of Revenue is satisfied that a refund is proper it shall authorize seven-ninths of the amount of the tax paid to be refunded as other refunds are made and the amount refunded shall be deducted from current motor fuel tax receipts.]

(5) When the Department of Revenue finds that an application for *an exemption* [a refund] contains a false or fraudulent statement or that *an exemption* [a refund] has been fraudulently obtained, the Department of Revenue shall refuse to grant any *exemptions* [refunds] to the person making such false or fraudulent statement or fraudulently obtaining *an exemption* [a refund] for a period of two years from the date of such findings.

(6) The Department of Revenue may prescribe, adopt and enforce regulations relating to the administration and enforcement thereof.

(7) The *exemption* [refund] provided herein shall be effective on motor fuel purchased July 1, *1976* [1972] and thereafter.

Section 16. A new section of KRS Chapter 96A is created to read as follows:

The Department of Transportation shall institute a program for administering reduced fares for those citizens of Kentucky 65 years or older on public transportation.

Section 17. KRS 96A.310 is amended to read as follows:

The general assembly of the commonwealth of Kentucky hereby finds and determines as a legislative finding of fact that the institution, acquisition, preservation and continuation of *public or regional* [mass] transportation facilities to serve the general public is vital to the health, safety and material well-being of the citizens and inhabitants of the commonwealth, and that the preservation and continuation of operations of *public or regional* [mass] transit facilities at reasonable rates to the public constitutes a proper application of the police power, will result in decreased automotive congestion, safer and more efficient utilization of the public ways, and the safe and effective movement of persons and property, and will thereby serve the public safety, health, convenience, enjoyment and general welfare.

Section 18. KRS 96A.320 is amended to read as follows:

(1) As used in KRS 96A.310 to 96A.370, the term "*public or regional* [mass] transportation program" shall mean the provision of necessary funds by public bodies to transit authorities created pursuant to KRS chapter 96A with which to acquire, operate and preserve *public and regional transit* [mass transportation] facilities.

(2) Public bodies which have been parties to the creation and establishment of transit authorities, or who constitute the membership of such transit authorities, may, acting either individually or jointly, submit to either (i) the electorates of such public bodies, or (ii) the electorate of the transit area encompassed by any such transit authority, but only in the manner and pursuant to the procedures set forth in KRS 96A.310 to 96A.370, one or more proposals for the approval of a *public or regional* [mass] transportation program to be financed by additional voted levies of ad valorem taxes upon all taxable property in such public body or public bodies. Such additional voted levies of ad valorem taxes upon all taxable property in any such public body shall never exceed in the aggregate the limits prescribed by the constitution of Kentucky for any such public body.

(3) Public bodies which have been parties to the creation and establishment of transit authorities, or who constitute the membership of such transit authorities, may, acting either individually or jointly, submit to either (i) the electorates of such public bodies, or (ii) the electorate of the transit area encompassed by any such transit authority, but only in the manner and pursuant to the procedures set forth in KRS 96A.310 to 96A.370, one or more proposals for the approval of a *public or regional* [mass] transportation program to be financed by voted levies of occupational license fees. Such voted levies of occupational license fees shall not exceed one percent (1%) of (a) salaries, wages, commissions and other compensation earned by persons for work done and services performed or rendered, and (b) the net profits of businesses, trades, professions or occupations from activities conducted in the public body, or the transit area, except public service companies, banks, trust companies, combined banks and trust companies, combined trust, banking and title companies, and in all other cases where a public body is prohibited by law from imposing a license fee.

(4) Public bodies which have been parties to the creation and establishment of transit authorities, or who constitute the membership of such transit authorities, may, acting either individually or jointly, submit to either (i) the electorates of such public bodies, or (ii) the electorate of the transit area encompassed by any such transit authority, but only in the manner and pursuant to the procedures set forth in KRS 96A.310 to 96A.370, one or more proposals for the approval of a *public or regional* [mass] transportation program to be

financed by the voted levy of an annual motor vehicle license fee with respect to each and every motor vehicle which is legally registered within either the geographical boundaries of such public body, or the transit area of such transit authority, as appropriate, such annual motor vehicle license fee not to exceed fifteen dollars ($15) in the case of any transit authority which includes in its membership a city of the first class, and seven dollars and fifty cents ($7.50) in all other cases. As used herein, the term "motor vehicle" shall have the meaning ascribed by KRS 186.010(7)(a). facilities.

Section 19. KRS 96A.330 is amended to read as follows:

(1) Any transit authority created pursuant to the provisions of KRS chapter 96A may, by resolution duly adopted by its board in the manner prescribed by KRS 96A.060, request one or more of the public bodies which, upon the date of adoption of such resolution constitute members of such transit authority, either (i) to submit to their respective electorates, or (ii) to jointly submit to the electorate of the entire transit area encompassed by such transit authority a proposal for the approval or disapproval of a *public or regional* [mass] transportation project. Such resolution shall set forth in detail, or shall incorporate by reference a detailed study in respect of, the mass transportation program proposed for submission to such electorate or electorates, together with the proposed source or sources of funding thereof, subject to the limitations of KRS 96A.310 to 96A.370.

(2) Upon receipt of any such resolution of the board of any such transit authority, the governing body of each public body to which such resolution is directed shall cause such resolution and the study for *public or regional* [mass] transportation program contained therein to be carefully reviewed. The public body or public bodies may cause further studies to be made with respect to such request of such transit authority, and may require such transit authority to submit such further and additional date, statistics and information as may be required by such public body or public bodies in order to enable same to make a proper decision regarding any proposed *public or regional* [mass] transportation program.

(3) In the event the governing body of any such public body shall determine that the public welfare requires the establishment of the *public or regional* [mass] transportation program as proposed by such transit authority, the governing body of such public body may by resolution or ordinance determine that a proposal for the establishment of such *public or regional* [mass] transportation program shall be submitted to the electorate of such public body. Such resolution or ordinance of such public body shall describe the *public or regional* [mass] transportation program to be submitted to such electorate, together with the proposed source of funding therefor, which shall be expressed as either: (i) an ad valorem tax levy expressed as a certain maximum number of cents per each one hundred dollars ($100) of assessed valuation, subject to constitutional limits; (ii) an occupational license tax, subject to the limitations of KRS 96A.310 to 96A.370; or (iii) an annual motor vehicle license tax, subject to the limitations of KRS 96A.310 to 96A.370.

(4) In the event the membership of any such transit authority consists of more than one public body, and in the event the resolution of the board of such transit authority is directed to all such public bodies, all such public bodies may, by adoption of appropriate resolutions or ordinances determine that the proposition for the establishment of such mass transportation program, together with the identified funding source therefor, shall be submitted to the electorate of the transit area of such transit authority rather than to the separate electorates of such public bodies. In such event, the election on the proposition regarding such mass transportation program shall be held simultaneously within such transit area by all such public bodies and the notice of the election shall be uniform.

Section 20. KRS 96A.340 is amended to read as follows:

(1) The resolution or ordinance of each public body determining that a proposition for the establishment of a *public or regional* [mass] transportation program be submitted to the electorate of such public body or to the electorate of the transit area of such transit authority, as the case may be, shall in each case be published in full in the newspaper or newspapers of bona fide circulation for such public bodies as provided by KRS 424.130. Thereafter, such public body or public bodies shall cause the proposition to be prepared for submission to the electorate of either such public bodies or such transit area of the transit authority, as the case may be, at an election to be called and held for such purpose. Such election may be held upon any date stipulated by the public body or public bodies and shall be held pursuant to notice as prescribed in KRS 424.130. Said election may, but need not, be held in conjunction with a regularly scheduled November election or a primary election as otherwise provided by law. The proposal to be submitted to the electorate of such public body or public bodies, or transit area of such transit authority, as the case may be, shall be so framed that any voter who wishes to vote in favor of the mass transportation program and the financing source therefor may signify his approval by voting "yes", and any voter who wishes to vote against the *public or regional* [mass] transportation program and the funding therefor may do so by voting "No".

(2) In the event any such *public or regional* [mass] transportation program proposal is submitted to the electorate of any individual public body, such proposition and the source of funding therefor shall be approved if a majority of those voting on the proposal within the public body shall vote "yes".

(3) In the event any such *public or regional* [mass] transportation program proposal is submitted to the electorate of any transit area of any such transit authority by simultaneous submission by all public bodies who are at the time of such submission members of such transit authority, such proposition and the source of funding therefor shall be approved if a majority of those voting on the proposal within the transit area of such transit authority shall vote "yes".

(4) Any additional voted levies of ad valorem taxes approved by electorates pursuant to KRS 96A.310 to 96A.370, shall in the case of individual public bodies, be added to and constitute legal tax levies of such individual public bodies within the meaning of the constitution of Kentucky, and shall, in the case of votes taken in transit areas of transit authorities, constitute legal tax levies of each and every individual public body which is a member of any such transit authority within the meaning of the constitution of Kentucky.

Section 21. KRS 96A.350 is amended to read as follows:

(1) The elections herein authorized shall, in the case of any individual public body, be called and held by the particular public officials of said public body responsible for the calling and holding of general elections. All ad valorem tax receipts, occupational tax receipts and *public or regional* [mass] transit license fee receipts derived in respect of any such elections shall be collected by the public officials of such public body statutorily responsible for such collection, and shall pending disbursement be held in a separate and special trust fund identified as the *public or regional* [mass] transit trust fund by said public body to be used solely and only for purposes of the mass transportation program approved by the electorate of such public body, as hereinafter provided. Moneys therefrom shall be disbursed only upon order of the chief financial officer of such public body.

(2) In the event any election authorized by KRS 96A.310 to 96A.370 is, pursuant to the provisions of KRS 96A.310 to 96A.370, to be submitted to the electorate of any transit area of a transit authority by all of the public bodies which are members of any such transit authority, and if one of such public bodies is a county which encompasses one or more additional public bodies, the clerk of the county court of such county (or the clerk of each county court in the event more than one county shall be a member of such transit authority) shall cause such election proposition to appear on the ballots or voting machine slips used in respect of the election on such proposition. All ad valorem tax receipts, occupational tax receipts and *public or regional* [mass] transit license fee receipts derived in respect of any such elections shall be collected by the proper public officials of such county or counties statutorily responsible for such collection, and shall pending disbursement be held in a separate and special trust fund identified as the *public or regional* [mass) transit trust fund to be used solely and only for purposes of the *public or regional* [mass] transportation program approved by the electorate of such transit area, as hereinafter provided. Said *public or regional* [mass] transit trust fund shall in such case be held in the custody of all public bodies which are members of such transit authority and moneys therefrom shall be disbursed only upon orders of the chief financial officers of all such public bodies.

Section 22. KRS 96A.360 is amended to read as follows:

Not less than annually any transit authority for the benefit of which a *public or regional* [mass] transportation program has been approved by the electorate of any public body, or by the electorate of its transit area in the event all public bodies comprising the membership of such transit authority have submitted such *public or regional* [mass] transportation program to the electorate of such transit area as provided by KRS 96A.310 to 96A.370, shall file with such public body or public bodies an annual budget of current expenses and an annual report, together with such other periodic reports and data as such public bodies may reasonably require and prescribe. Such annual budget may be approved or disapproved by such public body or public bodies, or may be caused by such public body or public bodies to be revised, amended, or otherwise altered in the sound discretion of such public body or public bodies. Provided, however, that no disbursement of any funds within any *public or regional* [mass] transit trust fund shall be made until such annual budget shall in its final form be approved by the governing bodies of all such public bodies.

Section 23. KRS 96A.370 is amended to read as follows:

(1) In addition to all other powers and rights granted by KRS chapter 96A, public bodies are expressly authorized and empowered to enter into joint agreements and multi-municipal compacts with transit authorities, and all other units of government, both federal and state, for the acquisition, maintenance and operation of *public or regional* [mass] transportation facilities. Any such agreements may provide for proportionate payments by such public bodies for transit purposes based upon any reasonable criteria, including, but not by way of limitation, population and actual *public or regional* [mass] transit services rendered.

(2) Any such joint agreement or multi-municipal compact may provide by its terms that notwithstanding the fact that a *public or regional* [mass] transportation program, together with the source of funding therefor, has been approved by the electorate or electorates of one or more of such public bodies, any such public body

may, in any annual period, in lieu of utilizing such source of funding as approved by the electorate of any such public body, use and apply for purposes of making payments or contributions under such joint agreement or multi-municipal compact any other funds of such public body legally available therefor. Provided, however, that any source of funding approved by the electorate in connection with the approval of such a *public or regional* [mass] transportation program shall not, as a result of such permissive funding by any such public body from other legally available sources, be rendered void or nugatory.

Section 24. KRS 96A.010, 96A.020, 96A.030, 96A.040, 96A.050, 96A.060, 96A.070, 96A.080, 96A.090, 96A.095, 96A.100, 96A.110, 96A.120, 96A.130, 96A.140, 96A.150, 96A.160, 96A.170, 96A.180, 96A.190, 96A.210 and 96A.220 are repealed.

Section 25. (1) To carry out the purpose of Section 16 of this Act, there is appropriated to the Department of Transportation out of the General Fund in the State Treasury the sum of $750,000 for the fiscal years 1976-77 and 1977-78.

(2) To carry out the purposes of Sections 13 and 14 of this Act, there is appropriated to the Kentucky Department of Transportation out of the General Fund in the State Treasury the sum of $1.2 million dollars for the fiscal years 1976-77 and 1977-78.

The Committee Substitute to **HB 31** is as follows:

HB 31, AN ACT relating to public transportation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 160.305 is amended to read as follows:

(1) *A transit authority or the* [The] department for human resources may enter into a contract with the local board of education of any school district in the commonwealth for the use of school buses to transport persons eligible for transportation services at times when the buses are not needed to transport students to or from school or school events. Persons eligible for such transportation services shall be:

(a) Sixty-Two (62) years of age or older;

(b) Physically or mentally handicapped; [or]

(c) Any other person designated by the *transit authority or* department for human resources as appropriate for such transportation services*; or* [.]

(d) Any fare-paying passenger.

(2) Before such a contract is entered into, the *transit authority or* department for human resources shall formulate a plan for the use of school buses for such purposes and shall submit it to the local board of education for its approval or disapproval. The plan for the use of school buses for such transportation purposes shall include routes, schedules, cost and any other matters deemed necessary by both parties.

(3) The cost of transporting persons eligible under the provisions of subsection (1) of this section shall be borne by the *respective transit authority or* department for human resources.

SECTION 2. A NEW SECTION OF KRS CHAPTER 96 IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky department of transportation shall participate in the federal capital grant program administered under the Urban Mass Transportation Administration, as provided in this section.

(2) Any local government unit or transit authority may apply to the Kentucky department of transportation for matching funding in order to participate in the federal capital grant administered by the Urban Mass Transportation Administration. This application shall provide such background information and statistics concerning the project as the department shall deem necessary.

(3) The Kentucky department of transportation shall furnish half of the local government's share of the funding for each project.

Section 3. KRS 138.662 is amended to read as follows:

(1) City and suburban bus companies operating under a certificate of convenience and necessity issued pursuant to KRS Chapter 281 *and all transit authority vehicles shall be exempted from the KRS Chapter 138 taxes paid on motor fuels* [shall be entitled to a refund of seven-ninths of the amount of KRS Chapter 138 taxes paid on motor fuels] used in their regularly scheduled operations in Kentucky.

(2) No person shall be entitled to *an exemption* [a refund] hereunder unless he shall have first filed with the Department of Revenue a bond issued by a surety company authorized to do business in Kentucky in an amount of not less than one thousand dollars nor more than five thousand dollars to be determined by the

Department of Revenue, conditioned upon faithful compliance with this section and upon the payment to the Commonwealth of any *exemptions* [refunds] to which he was not entitled.

(3) Applications for *exemptions shall be administered by the department of revenue.* [refund shall on or before the last day of each month following the quarter, September 30, December 31, March 31, and June 30, be made to the Department of Revenue on forms and in the manner prescribed by it for the refund of tax paid on motor fuel used by buses during the quarter. Each application for a refund shall show the number of gallons of motor fuel purchased during the quarter for use in buses; the date and quantity of each purchase; the vendor from whom such fuel was purchased; the number of gallons on which refund is claimed; and such other information as the Department of Revenue may require. The application shall be made under oath.]

(4) The Department of Revenue shall audit the application and make such other investigation as it deems necessary to determine whether it constitutes a proper *exemption* [claim]. [When the Department of Revenue is satisfied that a refund is proper it shall authorize seven-ninths of the amount of the tax paid to be refunded as other refunds are made and the amount refunded shall be deducted from current motor fuel tax receipts.]

(5) When the Department of Revenue finds that an application for *an exemption* [a refund] contains a false or fraudulent statement or that *an exemption* [a refund] has been fraudulently obtained, the Department of Revenue shall refuse to grant any *exemptions* [refunds] to the person making such false or fraudulent statement or fraudulently obtaining *an exemption* [a refund] for a period of two years from the date of such findings.

(6) The Department of Revenue may prescribe, adopt and enforce regulations relating to the administration and enforcement thereof.

(7) The *exemption* [refund] provided herein shall be effective on motor fuel purchased July 1, *1976* [1972] and thereafter.

SECTION 4. A NEW SECTION OF KRS CHAPTER 96A IS CREATED TO READ AS FOLLOWS:

The department of transportation shall institute a program for administering and subsidizing reduced fares for those citizens of Kentucky 65 years of age or older or physically or mentally handicapped on public transportation.

Section 5. KRS 96A.120 is amended to read as follows:

For the purposes of acquiring or otherwise establishing one or more transit systems, or parts thereof, or for the purpose of adding to, extending, *operating* or improving one or more mass transportation systems owned or to be acquired or established, or for any combination of such purposes, an authority may, *in addition to other methods permitted by law* resort to financing according to any of the following financing methods, or any combination thereof, to the extent not inconsistent, one with another:

(1) Upon determination of its financing needs, an authority, by resolution of its board, may request the public body responsible for its creation and establishment, or any one or more of such public bodies if there be more than one:

(a) To appropriate and pay over to the authority all or any part of the amount determined to be necessary, or

(b) To provide the amount so determined to be necessary, or any part thereof, from the proceeds of general obligation bonds of such public body or public bodies, in which event the governing body or governing bodies of such public body or public bodies may, in its or their discretion, take such action as may be required by the constitution and applicable statutes of the commonwealth to submit to the voters thereof, at one or more elections to be held for such purpose, a proposal or proposals that the issuance of such general obligation bonds be approved and authorized, and if so approved and authorized, such general obligation bonds may be issued and the proceeds thereof may be appropriated to the authority in the manner requested;

(2) An authority may issue revenue bonds in its own name, payable solely from its income and revenues, and not constituting or purporting to constitute an indebtedness of the authority or of any other public body within the meaning of debt-limiting provisions of the constitution and applicable statutes of the commonwealth, in the manner and in accordance with the procedures set forth in KRS 58.010 to 58.170, inclusive, and KRS 61.390, subject to any interest rate limitations which may be applicable thereto as provided by law;

(3) An authority may issue its mortgage bonds, as authorized by KRS 58.170 and may make provision for obtaining revenues for the payment of the principal of and interest thereon, and for the payment of costs of operating and maintenance, and for the accumulation of reserves for renewals, replacements, extensions and improvements, and for debt service reserves, by leasing any mass transportation system owned by the authority, or to be acquired or established by the authority (or, if there be more than one mass transportation system, by leasing the same individually or in any combination) to one or more public bodies, whether or not such public bodies, or any of them, shall have participated in the creation and establishment of the authority. Any such lease shall be a written instrument, executed by the authority as lessor, and by one or more public

bodies, as a lessee or lessees, for a period of one (1) year (which may be from the date of the mortgage bonds, or from the date of acquisition or other establishment of the mass transit system or systems referred to therein), with exclusive options to the lessee or lessees to renew the same thereafter, from year to year, for one (1) year at a time, upon such rentals and other terms and provisions as will provide to the authority, in the event such lease is renewed by the lessee or lessees from time to time in accordance with such options, annual sums sufficient to provide for meeting the purposes of this subsection;

(4) General obligation bonds issued for the benefit of an authority, or revenue bonds or mortgage bonds issued by an authority may, in the discretion of the parties involved in the issuance thereof, be refinanced, whether at maturity or upon prior redemption in accordance with the terms thereof, by the issuance of bonds according to any of the financing plans herein authorized.

Section 6. KRS 96A.210 is amended to read as follows:

Public bodies and transit authorities [Counties and cities] of this state abutting upon the boundary line between this state and any other state are hereby authorized separately, jointly with each other, or jointly with any other county, municipality or political subdivision of any such abutting state to form a transit authority or to become a part of an existing transit authority, *or to contract for service,* as authorized by this chapter, with the broad and specific powers granted hereunder; or under KRS chapter 65; Provided, however, That any contract, agreement or compact authorized to be made under this section, shall be made with due regard to such federal or state constitutional requirements, as may prevail at the time of the making thereof.

Section 7. KRS 96A.170 is amended to read as follows:

[(1)] An authority created and established under this chapter, together with its ownership, financing, operation, rates and charges for use of its services and facilities, rules and regulations, routes, schedules and quality of service within its transit area shall be exempt from all jurisdiction of the department of transportation of the commonwealth, provided, however, that no new service may be instituted within or outside of the authority's transit area in competition with an existing certificated bus company without an application to and a grant of authority from the department of transportation as provided by KRS chapter 281, provided further that nothing in this section shall deny the department of transportation the authority to render such advice and assistance, including financial aid, engineering, planning and technical assistance, as it deems advisable, to enable an authority as created under this chapter to acquire, construct, expand, maintain, and operate a mass transit system as defined in this chapter and to establish regulations to promote local transit authorities.

[(2) No transit authority may engage in any charter bus service beyond the territorial limits of its transit area except a transit authority located in an urban county government which may engage in intrastate charter bus service within twenty-five miles from the boundaries of the urban county government.]

Section 8. KRS 96A.180 is amended to read as follows:

An authority shall provide for insurance of its properties, and for workmen's compensation, and for public liability or any other risk or hazard arising from its activities, and may provide for the insuring of its officers or employes against any such risk or hazard, and the expense of obtaining such insurance, and of paying the premiums therefor from time to time, shall be borne by the authority and chargeable as an operating expense of the authority. [In the event it shall prove to be impossible to obtain any such insurance coverage from reliable and reputable insurance carriers at reasonable rates, the] *The* board of an authority may provide for self insurance *for the above purposes and in such event shall provide such reserves as it may deem adequate* [and may establish for that purpose such reserves as may be within its ability to pay].

Section 9. (1) To carry out the purposes of Section 4 of this Act, there is appropriated to the department of transportation out of the general fund in the state treasury the sum of $1 million for the fiscal years 1976-77 and 1977-78.

(2) To carry out the purposes of Section 2 of this Act, there is appropriated to the Kentucky department of transportation out of the general fund in the state treasury the sum of $1.2 million for the fiscal years 1976-77 and 1977-78.

Section 10. KRS 96A.095 is repealed.

The Committee on Elections and Constitutional Amendments reported **HB 161, HB 276, HB 283, HB 414,** and **HB 444** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 161, AN ACT proposing an amendment to Section 170 of the Constitution of Kentucky relating to property exempt from taxation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. It is proposed that Section 170 of the Constitution of Kentucky be amended to read as follows:

There shall be exempt from taxation public property used for public purposes; places actually used for religious worship, with the grounds attached thereto and used and appurtenant to the house of worship, not exceeding one-half acre in cities or towns, and not exceeding two acres in the country; places of burial not held for private or corporate profit, institutions of purely public charity, and institutions of education not used or employed for gain by any person or corporation, and the income of which is devoted solely to the cause of education, public libraries, their endowments, and the income of such property as is used exclusively for their maintenance; all parsonages or residences owned by any religious society, and occupied as a home, and for no other purpose, by the minister of any religion, with not exceeding one-half acre of ground in towns and cities and two acres of ground in the country appurtenant thereto; household goods of a person used in his home; a homestead, which is a single-unit residential property maintained by the owner, who is sixty-five years of age or older *or permanently and totally disabled,* as his personal residence, up to the assessed valuation of sixty-five hundred dollars on said residence and contiguous real property, except for assessment for special benefits; crops grown in the year in which the assessment is made, and in the hands of the producer; and all laws exempting or omitting property from taxation other than the property above mentioned shall be void. The General Assembly may authorize any incorporated city or town to exempt manufacturing establishments from municipal taxation, for a period not exceeding five years, as an inducement to their location.

Section 2. This amendment shall be submitted to the voters of the Commonwealth for their ratification or rejection at the time and in the manner provided for under Sections 256 and 257 of the Constitution and under KRS 118.415.

HB 276, AN ACT proposing an amendment to Section 144 of the Constitution of Kentucky relating to Fiscal Courts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. It is proposed that Section 144 of the Constitution of Kentucky be amended to read as follows:

Section 144. Counties shall have a Fiscal Court, which may consist of the Judge of the County Court and the Justices of the Peace, in which Court the Judge of the County Court shall preside, if present; or a county may have three commissioners, to be elected from the county at large, who, together with the Judge of the County Court, shall constitute the Fiscal Court. *In counties having a population of more than 250,000, the Fiscal Court shall be composed of seven county commissioners elected from seven equal Districts in which they reside within the county, who, together with the Judge of the County Court, shall constitute the Fiscal Court. At the general election in the year 1977 one commissioner shall be elected from the county at large in the manner provided by existing law. At the general election in the year 1979 one commissioner shall be elected in each of six districts. The commissioners then elected shall hold their offices, three for two years and three for four years, as shall be determined at the 1978 session of the General Assembly; Provided that the term of office of the commissioner elected in the year 1977 shall be four years. Beginning in the year 1981 and every two years thereafter there shall be elected for four years one commissioner in each district in which the term of his predecessor in office will then expire. The term of office of county commissioners in counties having a population of more than 250,000 shall commence on the first Monday in January after their election and shall continue until their successors are elected and qualify.* A majority of the members of said Court, shall constitute a Court for the transaction of business. But where, for county governmental purposes, a city is by law separated from the remainder of the county, such Commissioners may be elected from the part of the county outside of such city.

Section 2. This amendment shall be submitted to the voters of the Commonwealth for their ratification or rejection at the time and in the manner provided for under Sections 256 and 257 of the Constitution and under KRS 118.415.

HB 283, AN ACT proposing an amendment to Section 42 of the Constitution of Kentucky relating to the meeting of the General Assembly.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. It is proposed that Section 42 of the Constitution of Kentucky be amended to read as follows:

The members of the General Assembly shall severally receive from the State Treasury compensation for their services, which shall be five dollars a day during their attendance on, and fifteen cents per mile for the necessary travel in going to and returning from, the sessions of their respective Houses: Provided, The same may be changed by law; but no change shall take effect during the session at which it is made; nor shall a session of the General Assembly continue beyond sixty legislative days, *which need not be consecutive and the order of which shall be determined by the General Assembly* [exclusive of Sundays and legal holidays]; but this limitation as to length of session shall not apply to the first session held under this Constitution, nor to the Senate when sitting as a court of impeachment. A legislative day shall be construed to mean a calendar day, *exclusive of Sundays and legal holidays.*

Section 2. This amendment shall be submitted to the voters of the Commonwealth for their ratification or rejection at the time and in the manner provided for under Sections 256 and 257 of the Constitution and under KRS 118.415.

HB 414, AN ACT proposing to amend Section 226 of the Constitution relating to lotteries and gift enterprises.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. It is proposed that Section 226 of the Constitution be amended to read as follows:

(1) Lotteries and gift enterprises are forbidden [, and no privileges shall be granted for such purposes, and none shall be exercised,] and no schemes for similar purposes shall be allowed, *except that the General Assembly may authorize a lottery on the Kentucky Derby, the net proceeds of which shall be applied exclusively to or in aid or support of educational purposes, and games of bingo which are licensed and regulated by the state government and the net proceeds from which are applied exclusively to or in aid or support of charitable and educational purposes.* The General Assembly shall enforce this section by proper penalties. All lottery privileges or charters heretofore granted are revoked.

(2) The General Assembly shall, by general law, provide a means whereby the sense of the people of any county, city or town may be taken as to whether or not bingo for charitable and educational purposes shall be held and the holding thereof regulated. The General Assembly shall, by general law, prescribe for the regulation and control of bingo in towns, counties or cities where such are authorized, pursuant to this section. All elections on this question may be held on a day other than regular election days.

Section 2. This Act shall be submitted to the voters of the Commonwealth for their ratification or rejection at the time in the manner provided for under Sections 50, 256 and 257 of the Constitution and under KRS 118.415.

HB 444, AN ACT relating to the presidential primary.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 118.620 is amended to read as follows:

(1) The secretary of state shall place the names of all candidates who have been nominated by the state board of elections or by petition and who satisfy the requirements of KRS 118.600 and 118.610 on the official presidential preference primary ballot of their respective political parties. *The secretary of state shall additionally place on the ballot of each political party a ballot slot for voters to cast an "uncommitted" vote. This vote shall be entitled to the same proportionate representation as a candidate under KRS 118.640, but delegates representing these voters shall not be bound by the first ballot requirement of KRS 118.630.*

(2) If no presidential candidates nominated by the board or by petition meet the requirements of KRS 118.600 and 118.610, then no presidential preference primary shall be held in the commonwealth.

Section 2. KRS 118.640 is amended to read as follows:

The [four (4)] candidates receiving the highest number of votes, [or all candidates if there are fewer than four (4) participating in the primary,] provided each candidate receives at least fifteen percent (15%) of the total vote cast by his political party, shall be awarded a pro rata portion of the authorized delegate vote of his political party as follows:

(1) The total vote received by the candidates qualifying under the provisions of KRS 118.550 to 118.650 and subsections herein shall, when combined, be equal to one hundred percent (100%);

(2) Each such candidate shall share in the total percentage in direct proportion to the total vote received by him, mathematically determined to be the percentage of the aggregate vote which represents one hundred percent (100%);

(3) Each political party shall appropriate such percentage, as is determined by this section, to the total number of delegate votes as are allotted by the national committee of each party; and

(4) Each political party shall, on the first ballot at its national convention, cast this commonwealth's vote for the candidates as determined by the primary and calculated under this section. Provided, however, that in the event of the death or withdrawal of a candidate receiving votes under this section prior to the tabulation of the first ballot, any delegate votes allocated to such candidate shall be considered uncommitted. Withdrawal shall mean notice in writing by the candidate to the chairman of the Kentucky delegation prior to the first ballot.

Section 3. Whereas, the presidential primary in 1976 will be held on May 25, an emergency is declared to exist, and this Act shall become effective upon its passage and approval by the Governor.

The Committee on Judiciary-Courts reported **HB 432,** with Committee Amendments attached thereto, **HB 526, HB 544** with Committee Amendment attached thereto, and **SB 122** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 432, AN ACT relating to the Court of Appeals of Kentucky.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. KRS CHAPTER 22A IS ESTABLISHED AND A NEW SECTION THEREOF TO READ AS FOLLOWS:

The General Assembly recognizes that matters relating to the operation of the Court of Appeals fall within the purview of the Court of Justice as provided in Sections 109 through 124 of the Constitution of Kentucky.

SECTION 2. A NEW SECTION OF KRS CHAPTER 22A IS CREATED TO READ AS FOLLOWS:

(1) The Court of Appeals shall consist of fourteen (14) judges, with two (2) judges from each of seven (7) Court of Appeals districts.

(2) The districts of the Court of Appeals shall correspond in geographical dimensions to the districts of the Supreme Court, as defined in KRS Chapter 21A.

SECTION 3. A NEW SECTION OF KRS CHAPTER 22A IS CREATED TO READ AS FOLLOWS:

(1) Except as provided in Section 110 of the Constitution, an appeal may be taken as a matter of right to the Court of Appeals from any conviction, final judgment, order, or decree in any case for which a trial was held, or could have been held, in circuit court.

(2) The Court of Appeals has jurisdiction to review interlocutory orders of the circuit court in civil cases, but only as authorized by rules promulgated by the Supreme Court.

(3) Notwithstanding any other provision in this Section, there shall be no review by appeal or by writ of certiorari from that portion of a final judgment, order or decree of a circuit court dissolving a marriage.

(4) An appeal may be taken to the Court of Appeals by the state in criminal cases from an adverse decision or ruling of the circuit court, but only under the following conditions:

(a) Such appeal shall not suspend the proceedings in the case.

(b) Such appeal shall be taken in the manner provided by the Rules of Criminal Procedure and the Rules of the Supreme Court, except that the record on appeal shall be transmitted by the clerk of the circuit court to the attorney general; and if the attorney general is satisfied that review by the Court of Appeals is important to the correct and uniform administration of the law, he may deliver the record to the clerk of the Court of Appeals within the time prescribed by the above-mentioned Rules.

(c) When an appeal is taken pursuant to this subsection, the Court of Appeals, if the record so warrants, may reverse the decision of the circuit court and order a new trial in any case in which a new trial would not constitute double jeopardy or otherwise violate any constitutional rights of the defendant.

(5) The Court of Appeals may grant review by writ of certiorari of any final judgment, order or decree of the circuit court in any other case in which the interest of justice would be served by review.

SECTION 4. A NEW SECTION OF KRS CHAPTER 22A IS CREATED TO READ AS FOLLOWS:

(1) The administrative director of the courts shall provide for physical facilities for the operation of the Court of Appeals, and may utilize the services of the executive department for finance and administration in securing such facilities.

(2) The Court of Appeals may use any public property of, or any property leased or rented to, the Commonwealth or any of its political subdivisions for the holding of court and for its ancillary functions upon proper agreement with the applicable authorities.

(3) The Court of Appeals may use any federal courtroom or other facility for the holding of court and for its ancillary functions upon proper agreement with the applicable authorities.

SECTION 5. A NEW SECTION OF KRS CHAPTER 22A IS CREATED TO READ AS FOLLOWS:

(1) The clerk of the Court of Appeals shall be appointed by the court to serve at its pleasure. The annual salary of the clerk shall be fixed by the Supreme Court.

(2) Before entering upon the duties of his office, the clerk shall take the oath of office prescribed by the Constitution.

(3) The clerk shall perform such duties as the Court of Appeals may assign, and shall be bonded to the Commonwealth, for faithful performance of duty, in such manner and in such amount as the Supreme Court shall determine.

(4) The clerk may appoint assistants in the number and at the salaries fixed by the Supreme Court.

(5) The Court of Appeals shall adopt a seal. The clerk shall be the keeper of the seal and shall use it upon such documents as the Court of Appeals may require.

(6) A fee schedule for services rendered by the clerk shall be fixed by rule of the Supreme Court, except that charges to litigants for the reproduction of appellate records and briefs shall be fixed and administered by the clerk. All fees collected by the clerk shall be remitted to the state treasury.

(7) The auditor of public accounts shall audit the financial accounts of the clerk at least once every year.

SECTION 6. A NEW SECTION OF KRS CHAPTER 22A IS CREATED TO READ AS FOLLOWS:

The Court of Appeals may enforce its mandates by fine or imprisonment, or both.

SECTION 7. A NEW SECTION OF KRS CHAPTER 22A IS CREATED TO READ AS FOLLOWS:

(1) A judgment, order or decree of a lower court may be reversed, modified or set aside by the Court of Appeals for errors appearing in the record.

(2) The method of bringing a judgment, order or decree of a lower court to the Court of Appeals for review shall be established by Supreme Court rule. The procedures for appellate review shall be established by the Rules of Civil Procedure, Rules of Criminal Procedure and other rules promulgated by the Supreme Court.

SECTION 8. A NEW SECTION OF KRS CHAPTER 22A IS CREATED TO READ AS FOLLOWS:

The original or final process of the Court of Appeals may be directed to the sheriff of any county.

SECTION 9. Whereas the new constitutional provisions relating to courts became effective January 1, 1976, an emergency is declared to exist, and this Act shall become effective upon its passage and approval by the Governor.

The Committee Amendment No. 1 to **HB 432** is as follows:

Amend printed copy of House Bill 432 on page 4, lines 3 and 4 by striking the words "Supreme Court" and inserting in lieu thereof the words "General Assembly not to exceed $22,000."

The Committee Amendment No. 2 to **HB 432** is as follows:

Amend printed copy of House Bill 432 on page 1, line 20 to delete the words "for which a trial was held," and to insert in lieu thereof "in the circuit court unless such conviction, judgment, order, or decree was the result of an appeal from district court."

and on page 2, line 1, to delete the line

and on page 3, lines 5, 6, 7, and 8 to delete the same and to insert in lieu thereof

"(5) Any party aggrieved by the judgment of the circuit court in a case appealed from the district court may petition the Court of Appeals for a writ of certiorari."

and on page 3, line 12, following the words "provide for" to add the word "such" and following the word "facilities" to add the words "as are available"

and on page 4, line 11, to delete the word "such" and to insert in lieu thereof the word "an" and, following the word "amount" to add ", not less than ten thousand dollars".

HB 526, AN ACT relating to police court in a city of the first class.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 26.360 is amended to read as follows:

Persons arrested under a charge of crime in a city of the first class and presented to the police court for trial shall be so presented *without unnecessary delay* [within twenty-four (24) hours after arrest, unless Sunday intervenes].

HB 544, AN ACT relating to judicial support agencies and personnel.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. KRS CHAPTER 27A IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

In accordance with Section 110(5)(b) of the Constitution of Kentucky, the Chief Justice of the commonwealth shall be the executive head of the Court of Justice and shall appoint such administrative assistants as he deems necessary.

SECTION 2. A NEW SECTION OF KRS CHAPTER 27A IS CREATED TO READ AS FOLLOWS:

The administrative office of the courts is created to serve as the staff for the Chief Justice in executing the policies and programs of the Court of Justice. The director of the administrative office of the courts, employes thereof, and administrative assistants of the Chief Justice shall serve at the pleasure of the Chief Justice. The salaries of the director, employes thereof, and administrative assistants of the Chief Justice shall be fixed by order of the Chief Justice and paid monthly out of the state treasury. While holding their positions the director, employes of the office and administrative assistants shall not practice law in any court of this commonwealth.

SECTION 3. A NEW SECTION OF KRS CHAPTER 27A IS CREATED TO READ AS FOLLOWS:

The Chief Justice in his sole discretion may delegate the following functions to the administrative director of the courts or to his administrative assistants;

(1) Perform administrative services for the Court of Justice and supervise its clerical and administrative personnel, and its accommodations;

(2) Act as fiscal officer of the Court of Justice and in so doing shall:

(a) Maintain fiscal controls and accounts of funds appropriated for the Court of Justice;

(b) Review and audit expense vouchers of justices, judges, and employes of the Court of Justice. Upon approval, the Chief Justice shall submit the vouchers to the Executive Department for Finance and Administration, which shall certify the same to the State Treasurer for payment;

(c) Prepare all requisitions for the payment of state moneys appropriated for the maintenance and operation of the Court of Justice;

(d) Prepare budget estimates of state appropriations necessary for the maintenance and operation of the Court of Justice and make recommendations in respect thereto;

(e) Collect statistical and other data and make report to the Supreme Court relating to the expenditure of public moneys for the maintenance and operation of the Court of Justice and the offices connected therewith;

(3) Ascertain the necessity for assignment of justices and judges as contemplated by Section 110(5)(b) of the Constitution, make reports concerning their performance of duties and certify the compensation payable to them;

(4) Carry on a continuous survey and study of the organization, operation, condition of business, practice and procedure of the Court of Justice;

(5) Collect and compile statistical and other data concerning the operations of the courts, and to this end may require all necessary reports from the courts and clerks thereof of this commonwealth relating to rules, dockets, and business dispatched or pending in such courts;

(6) Formulate and submit to the Supreme Court recommendations of policies for the improvement of the Court of Justice;

(7) Provide for educational programs for the members of the Court of Justice;

(8) Report to the general assembly concerning the work of the Court of Justice and make such recommendations for the improvement of administration of justice as deemed necessary and proper;

(9) Supervise, operate, and administer all pre-trial release programs and personnel which come within the purview of the Court of Justice, or which are related thereto.

(10) Perform such other functions as may be assigned by the Chief Justice.

SECTION 4. A NEW SECTION OF KRS CHAPTER 27A IS CREATED TO READ AS FOLLOWS:

(1) There is hereby created a judicial council composed of the following persons: The Chief Justice of the Supreme Court or his designee from among the members of that Court; the chief judge of the Court of Appeals or his designee from among the members of that court; four (4) circuit judges, four (4) district judges, one (1) county judge, and one (1) police court judge, all of whom shall be appointed by the Chief Justice of the Supreme Court; the president of the Kentucky Association of Circuit Court Clerks; three (3) members of the state bar of Kentucky who shall be appointed by its board of governors; and the chairmen of the judiciary committees of the house of representatives and of the senate, or the vice-chairman of any of these committees if the chairman declines to serve.

(2) The appointed members shall serve for a term of four (4) years and until their successors are appointed and qualify. Vacancies in the office of appointed members shall be filled by the original appointing authority.

(3) The Chief Justice of the Supreme Court shall be the chairman of the council, or if he is not a member or declines to serve as chairman, a member of the council shall be appointed by him to serve as chairman. The administrative director of the courts shall serve as secretary.

SECTION 5. A NEW SECTION OF KRS CHAPTER 27A IS CREATED TO READ AS FOLLOWS:

The judicial council shall serve in an advisory capacity only. It shall give continuing consideration to the administration of justice in the courts of the commonwealth. It may submit from time to time to the Supreme Court, either upon request or on its own motion, such recommendations as it may deem advisable for changes in rules, practice, procedure, or other matters pertaining to the judicial system.

SECTION 6. A NEW SECTION OF KRS CHAPTER 27A IS CREATED TO READ AS FOLLOWS:

The judicial council shall meet at least twice each year at such times and places as shall be designated by its chairman and shall hold such other meetings as shall be called by the chairman.

SECTION 7. A NEW SECTION OF KRS CHAPTER 27A IS CREATED TO READ AS FOLLOWS:

Members of the judicial council shall receive no compensation for their services, but shall be allowed their necessary expenses while on the business of the council. All claims for expenses shall be approved by the Chief Justice of the Supreme Court or his designee and shall be paid out of the state treasury.

SECTION 8. A NEW SECTION OF KRS CHAPTER 27A IS CREATED TO READ AS FOLLOWS:

(1) There is created, in the administrative office of the courts, a state law library which shall be under the supervision, management, and control of the administrative assistant to the Chief Justice designated by the Chief Justice.

(2) The administrative assistant shall appoint a state law librarian who shall:

(a) Serve at the pleasure of the Chief Justice;

(b) Appoint such assistant state law librarians and other employes as shall be necessary;

(c) Manage the state law library and perform such other tasks as may be assigned relative thereto.

SECTION 9. A NEW SECTION OF KRS CHAPTER 27A IS CREATED TO READ AS FOLLOWS:

(1) The following books and records shall be maintained by the state law library:

(a) All copies of volumes 1 to 77 of the Kentucky Reports;
(b) Twenty-five (25) copies each of volumes 78 to 314 of the Kentucky Reports;
(c) Six (6) sets each of all future publications of the journals and acts of the general assembly; and
(d) Two (2) sets of the official Kentucky Statute publications.

(2) The state law librarian shall arrange with the proper official of each state of the United States and of the United States and its territories for the exchanges of the statutes and the acts of the legislatures of each state and of congress. When an exchange is agreed upon, the state law librarian shall send to such officer one (1) copy of the acts of the general assembly and one set of statutes as soon as they are ready for distribution.

(3) Copies of acts, statutes and other materials required to be kept by the state law librarian and to be made available for exchange shall be furnished to the state law librarian, without charge, by the agency or official responsible for the distribution of same.

(4) The state law librarian may arrange for the distribution or disposal of materials held by the state law library upon concurrence of the administrative assistant to the Chief Justice responsible for law library operations.

(5) The state law librarian may acquire, by purchase, exchange, donation, or otherwise, such books and other materials as he deems suitable for the holdings of the state law library.

(6) The state law librarian shall issue, with the concurrence of the administrative assistant to the Chief Justice responsible for law library operations, regulations for the operation, management, and lending policy of the state law library.

SECTION 10. A NEW SECTION OF KRS CHAPTER 27A IS CREATED TO READ AS FOLLOWS:
The terms of the police judge and county judge members of the judicial council provided for in Section 4 of this Act shall terminate January 1, 1978. They shall not be replaced.

Section 11. KRS Chapter 22 and KRS 171.015 through KRS 171.110 are repealed.

The Committee Amendment to **HB 544** is as follows:

Amend printed copy of House Bill 544 on page 2, line 7, by changing the word "o" to the word "to"; and

and on page 8, line 17 by changing "Section 11" to "Section 12";

and on page 8, following line 16, by inserting a new section as follows:

SECTION 11. A NEW SECTION OF KRS CHAPTER 27A IS CREATED TO READ AS FOLLOWS:

No provision of this Act shall be construed to abrogate the right of the General Assembly to fix the appropriation to the Court of Justice.

SB 122, AN ACT relating to quarterly courts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 25.490 is amended to read as follows:

(1) In counties having *an urban county form of government and in counties having* a population of 250,000 or more the county judge elected at a regular election for said office shall, on the first Monday in July succeeding his election, appoint for a period of four (4) years a clerk of the quarterly court, and shall also appoint for a period of four (4) years a chief deputy clerk of said court, and shall also appoint such other deputy clerks as in his judgment is necessary to carry on the functions of the office of clerk of the quarterly court. The clerk, chief deputy clerk and deputy clerks shall have the power to file papers, issue process, administer oaths, and issue warrants of arrest and criminal summons, and shall keep all such records of said court as are required by law, and for their services shall be paid such salaries out of the county treasury as are fixed by the county judge by written recommendation to the fiscal court of the county, which recommendtion shall become effective upon its approval by resolution of the fiscal court.

(2) The clerk, chief deputy clerk and the deputy clerks shall execute bond before the county court, with surety approved by the court, before entering upon the discharge of the duties of the office to which appointed. Fees collected from the quarterly court shall be paid into the treasury of the county. Said collections shall be made by the clerk, who shall settle with the county judge on the first Monday of each month, and pay the amount found to be due immediately into the county treasury.

Section 2. KRS 25.510 is amended to read as follows:

The clerk and deputy clerks of the quarterly court in counties having a population of 250,000 or more *and in a county containing an urban-county form of government* shall, when requested, take all bonds required by law to be given by persons arrested in the county for the appearance of such arrested persons before any justice court of the county, or before the county court or quarterly court. When any person is arrested under a warrant issued by the quarterly court, or is arrested without a warrant and is slated by the arresting officer to appear for a hearing before the quarterly court, the clerk and deputies shall have exclusive power to take bond for the appearance of such person, and shall also take all other bonds or recognizances required by law to be taken or given in the quarterly court and county court of their counties. They shall charge for their services in taking, receiving and recording such bonds a fee of one dollar ($1.00) for each bond taken, to be paid by the party for whom the services are rendered at the time the bond is taken. The clerk or one (1) of his deputies shall be in his office at all hours, day and night, for the purpose of taking bonds. All bonds and affidavits shall be returned within twenty-four (24) hours to the proper court. The clerk shall keep a record of all bonds taken by him and his deputies showing the date, amount of bond, name of defendant and the charge under which the arrest was made.

SECTION 3. A NEW SECTION OF KRS CHAPTER 25 IS CREATED TO READ AS FOLLOWS:

(1) In a county containing an urban-county form of government, the county judge shall appoint as many trial commissioners as he deems necessary to operate the quarterly court, the county court and the divisions thereof. For their services the trial commissioners shall be paid such salaries as are fixed by the county judge by written recommendation to the council of the urban-county government, which recommendation shall become effective upon approval by a majority of the members of the council.

(2) The trial commissioners shall hold office at the pleasure of the judge and shall discharge such judicial duties as are assigned to them by the judge. The commissioners, when authorized by an order of the county court, duly entered of record, may issue search warrants and warrants for arrest when such warrants are authorized by law. The commissioners must possess the qualifications of a judge of the county court.

The Committee on Judiciary-Statutes reported **HB 364, HB 532,** and **HB 585** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 364, AN ACT relating to interest on judgments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 360.040 is amended to read as follows:

A judgment shall bear legal interest from its date. A judgment may be for the principal and accrued interest [;], but if rendered for accruing interest, it shall bear interest only according to its terms [.]*;* Provided, that*:*

(1) when a claim for unliquidated damages is reduced to judgment, such judgment may bear less interest than six percent if the court rendering such judgment, after a hearing *upon due notice to all interested parties* on that question, is satisfied that the rate of interest should be less than six percent [. All interested parties must have due notice of said hearing.]*; or*

(2) when an indebtedness evidenced by a promissory note or other evidence of indebtedness bearing interest at a rate specified in such promissory note or other evidence of indebtedness is reduced to judgment, such judgment shall bear interest at such specified rate or the legal rate whichever is greater.

HB 532, AN ACT relating to the financial responsibility of owners and operators of motor vehicles.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 187.450, 187.460, 187.470 and 187.480 are repealed.

HB 585, AN ACT relating to city police and fire departments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 95.450 is amended to read as follows:

(1) Except as provided in subsection (5) of this section no member of the police or fire department in cities of the second and third classes or urban-county government shall be reprimanded, dismissed, suspended or reduced in grade or pay for any reason except inefficiency, misconduct, insubordination or violation of law or of the rules adopted by the legislative body, and only after charges are preferred and a hearing conducted as provided in this section.

(2) Any person may prefer charges against a member of the police or fire department by filing them with the clerk of the legislative body who shall immediately communicate the same to the legislative body. The mayor shall, whenever probable cause appears, prefer charges against any member whom he believes guilty of conduct justifying his dismissal or punishment. The charges shall be written and shall set out clearly the charges made. *The person preferring the charges may withdraw them at any time prior to the conclusion of the hearing. The charges shall thereupon be immediately dismissed.*

(3) Upon the hearing all charges shall be considered traversed and put in issue, and the trial shall be confined to matters related to the issues presented. Within three (3) days after the charges have been filed with the legislative body, that body shall proceed to hear the charges. At least two (2) days before the hearing the member accused shall be served with a copy of the charges and a statement of the day, place and hour at which the hearing of the charges will begin. The person accused may, in writing, waive the service of charges and demand trial within three (3) days after the charges are filed with the clerk.

(4) The legislative body may summon and compel attendance of witnesses at hearings by subpoena issued by the clerk of that body and served upon the witnesses by any officer authorized to serve court subpoenas, and the body shall have the power of a justice of the peace to punish for contempt. The member accused may have subpoenaed any witnesses he may desire, upon furnishing their names to the clerk. The action and decision of the body on the charges shall be reduced to writing and entered in a book kept for that purpose, and the written charges filed in the matter shall be attached to the book containing the decision.

(5) When the appointing authority or the head of the department has probable cause to believe a member of the police or fire department has been guilty of conduct justifying dismissal or punishment, he or it may suspend the member from duty or from both pay and duty, pending trial, and the member shall not be placed on duty, or allowed pay, until the charges are heard. *If the member is suspended, there shall be no continuances granted without the consent of the member accused.*

(6) The legislative body shall fix the punishment of a member of the police or fire department found guilty, by a reprimand, suspension for any length of time not to exceed six (6) months, by reducing the grade if the accused is an officer, or by combining any two or more of those punishments, or by dismissal from the service.

Section 2. KRS 95.460 is amended to read as follows:

(1) Any member of the police or fire department in cities of the second and third classes or urban-county governments found guilty by the legislative body of any charge, as provided by KRS 95.450, may appeal to the circuit court of the county in which the city or urban-county government is located, [if the punishment is a suspension of more than ten (10) consecutive calendar days, a reduction in grade, or dismissal,] but the enforcement of the judgment of the body shall not be suspended pending appeal.

(2) Upon request of the accused the clerk of the legislative body shall file a certified copy of the charges and the judgment of that body in the circuit court. Upon the transcript being filed the case shall be docketed in the circuit court and tried de novo.

(3) If the clerk fails to certify the transcript to the circuit court within five (5) days after the request is made, the party aggrieved may file an affidavit in the circuit court setting out as fully as possible the charges made, the time of the hearing, and the judgment of the legislative body, together with a statement that demand for transcript was made upon the clerk more than five (5) days before the filing of the affidavit. Upon the filing of the affidavit in the circuit court the case shall be docketed and the circuit court may compel the filing of the transcript by the clerk by entering the proper mandatory order, and by fine and imprisonment for contempt. The appeal shall have precedence over other business, and be determined speedily.

(4) An appeal will lie from the judgment of the circuit court to the Court of Appeals as in other cases [if the punishment fixed by the legislative body was suspension for more than sixty (60) days, reduction in grade or dismissal].

The Committee Amendment to **HB 585** is as follows:

Amend printed copy of House Bill 585 on page 2, line 2, change "shall" on line 2 to "may", and delete immediately.

The Committee on Appropriations and Revenue reported **HB 374,** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Ordered referred to the Committee on Rules.

The Committee Substitute for **HB 374** is as follows:

HB 374, AN ACT relating to appropriations for the operation, maintenance, support and functioning of the government of the Commonwealth of Kentucky and its various officers, cabinets, departments, boards, commissions, institutions, subdivisions, agencies, and other state supported activities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

PART I
GENERAL FUND

There is appropriated out of the General Fund for the fiscal year ended June 30, 1976, and, including any unappropriated surplus to the General Fund as of June 30, 1976, for the fiscal year beginning July 1, 1976, and ending June 30, 1977, and, including any unappropriated surplus to the General Fund as of June 30, 1977, for the fiscal year beginning July 1, 1977, and ending June 30, 1978, the following sums for the following officers, cabinets, departments, boards, commissions, institutions, subdivisions, and agencies of the State Government, and any and all other activities of the government of the Commonwealth of Kentucky subject to the provisions of Chapters 21, 42 and 45 of the Kentucky Revised Statutes, for which a specific appropriation is in Part I listed as follows:

A. GENERAL GOVERNMENT

1. GOVERNOR

1976-77	$ 714,100
1977-78	$ 745,500

2. LIEUTENANT GOVERNOR

1976-77	$ 255,000
1977-78	$ 280,000

3. SECRETARY OF STATE

a. General Operations

1976-77	$ 522,200
1977-78	$ 545,700

b. Restoration of Land Grant Books

1976-77	$ 20,000
1977-78	$ 20,000

TOTAL - SECRETARY OF STATE

1976-77	$ 542,200
1977-78	$ 565,700

4. BOARD OF ELECTIONS

1976-77	$ 965,500
1977-78	$ 982,900

The sum of $612,000 from the appropriation for the 1976-77 fiscal year, and $615,000 from the appropriation for the 1977-78 fiscal year is provided to pay the state's share of county election expenses (KRS 117.345). Any unexpended amount remaining at the close of each fiscal year shall lapse to the credit of the General Fund. Any expenses in excess of the above amounts shall be deemed a necessary governmental expense.

5. TREASURER

1976-77	$ 706,700
1977-78	$ 753,100

6. DEPARTMENT OF LAW

1975-76	$ 44,000
1976-77	$ 1,650,800
1977-78	$ 1,718,800

7. AUDITOR OF PUBLIC ACCOUNTS

1976-77	$ 641,900
1977-78	$ 645,100

Any expenses incurred in the auditing of federal disaster relief funds shall be deemed a necessary governmental expense.

8. GENERAL CONTINGENCY FUND

1975-76	$ 200,000
1976-77	$ 2,000,000
1977-78	$ 2,250,000

Funds are appropriated for meeting expenses deemed necessary by the Governor, and to be expended by the Governor, at his discretion, for any emergency or other contingency that he may determine requires the expenditure of any part of said fund. Any unexpended balance at the close of the 1976-77 fiscal year shall not lapse, but shall continue into the 1977-78 fiscal year.

9. CAPITAL PLAZA

1976-77	$ 2,333,500
1977-78	$ 2,331,200

10. COUNTY COSTS

1975-76	$ 183,000
1976-77	$ 10,430,000
1977-78	$ 10,610,000

All county costs funded by the General Fund are deemed to be necessary governmental expenses and additional funds may be allotted from the General Fund surplus by the Commissioner of the Executive Department for Finance and Administration.

11. EXECUTIVE DEPARTMENT FOR FINANCE AND ADMINISTRATION

a. State Planning Fund

1975-76	$ 300,000
1976-77	$ 2,100,000
1977-78	$ 2,100,000

Any portion of the above appropriation for the State Planning Fund may be transferred to other major program areas or agencies of state government for the purpose of funding planning studies approved by the State Planning Committee.

b. General Operations

1975-76	$ 3,163,700
1976-77	$ 10,617,400
1977-78	$ 11,121,500

Included in the above appropriation for fiscal year 1975-76 is $1,000,000 for use in implementation of the Judicial Article and related legislation and for the purposes of ascertaining the current level of revenues and expenditures in the inferior courts in preparation for a special session of the General Assembly. Any unexpended balance in this account at the close of the 1975-76 fiscal year shall not lapse but shall continue into the 1976-77 fiscal year. Likewise, any unexpended balance in this account at the close of the 1976-77 fiscal year shall not lapse, but shall continue into the 1977-78 fiscal year.

c. Salary Improvements for State Employees

1976-77	$ 13,000,000
1977-78	$ 15,000,000

Any portion of the above appropriation may be transferred to any major program area or agency of state government for the purpose of meeting salary improvements for state employees as determined to be needed by the Executive Department for Finance and Administration based upon the recommendation of the Department of Personnel.

d. Coal Miners Pneumoconiosis Fund

1976-77	$ 9,000,000
1977-78	$ 9,000,000

These funds are appropriated to the Coal Miners Pneumoconiosis Fund. This fund shall be used for compensating coal worker claimants entitled to benefits for coal workers' pneumoconiosis or silicosis as defined in KRS Chapter 342. If, however, the production of coal severed within the meaning of KRS Chapter 143 shall be less than 150,000,000 tons for each fiscal year 1976-77 or 1977-78 the Fund shall be reduced at the rate of six (6) cents per ton to the severed tonnage for each said fiscal year.

TOTAL - EXECUTIVE DEPARTMENT FOR FINANCE AND ADMINISTRATION

1975-76	$ 3,463,700
1976-77	$ 34,717,400
1977-78	$ 37,221,500

12.GENERAL OBLIGATION BONDS

1976-77	$ 10,375,000
1977-78	$ 10,385,000

For the principal and interest on bonds issued to pay veterans' bonuses, on general obligation park bonds, and on 1965 general obligation bonds.

13.COMMISSION ON HUMAN RIGHTS

1976-77	$ 633,600
1977-78	$ 665,800

14.KENTUCKY RETIREMENT SYSTEMS

1975-76	$ 250,000

15.DEPARTMENT OF MILITARY AFFAIRS

1975-76	$ 1,126,300
1976-77	$ 1,604,800
1977-78	$ 1,664,300

Any expenditures of funds as a result of the Governor's call of the Kentucky National Guard to active duty is hereby declared to be a necessary governmental expense provided, however, that an emergency situation shall have been declared to exist by the Governor.

16.OCCUPATIONAL AND PROFESSIONAL BOARDS AND COMMISSIONS

a. Kentucky Athletic Commission

1976-77	$ 35,500
1977-78	$ 35,500

17.DEPARTMENT OF PERSONNEL

1976-77	$ 2,100,600
1977-78	$ 2,231,500

Notwithstanding the provisions of KRS 18.330, the above appropriations are to be used for the pro-rata cost of administering a merit system of personnel administration for the civil service of the Commonwealth for all departments, commissions, boards, or other agencies which receive support from the General Fund or Revolving Trust and Agency Funds. Said appropriations may also be used for special training programs approved by the Commissioner for Finance and Administration.

Relative to merit hearings before the Personnel Board, the particular agency of which the complainant is or was an employee shall bear all of the administrative costs thereof whenever the Personnel Board rules in favor of the complainant, such as for example, but not limited to, the fees of court reporters, the printing or other reproduction expenses related to hearing transcripts, and other related matters. Relative to all appeals resulting from merit hearings of the Personnel Board, including appeals to the Circuit Court, Court of Appeals, or the Supreme Court, the particular agency of which the complainant in said hearing is or was an employee shall bear all of the costs thereof whenever the courts rule in favor of the complainant, chargeable to the Personnel Board, such as for example, but not limited to, legal fees and court costs and fees.

18.DEPARTMENT OF PUBLIC INFORMATION

1976-77	$ 3,080,200
1977-78	$ 3,080,200

The sum of $329,700 from the appropriation for the 1976-77 fiscal year, and $329,700 from the appropriation for the 1977-78 fiscal year may be used for a cooperative advertising program to encourage and assist local governments and agencies in the promotion of tourist attractions. The department may make matching grants not to exceed fifty percent (50%) of project cost to local governments and agencies for such purpose.

19.DEPARTMENT OF REVENUE

1975-76	$ 762,500
1976-77	$ 18,172,200
1977-78	$ 19,431,300

The above appropriations include $5,562,000 in fiscal year 1976-77 and $5,976,000 in fiscal year 1977-78 for property valuation administrators; any expenses in excess of these amounts for property valuation administrators shall be deemed necessary governmental expenses.

20.FINANCIAL DISCLOSURE REVIEW COMMISSION

1975-76	$ 8,700
1976-77	$ 8,700
1977-78	$ 8,700

21.KENTUCKY PUBLIC EMPLOYEE DEFERRED COMPENSATION SYSTEM

1975-76	$ 68,800
1976-77	$ 73,300
1977-78	$ 81,800

22.COMMISSION ON WOMEN

1975-76	$ 8,000
1976-77	$ 58,000
1977-78	$ 64,000

23.COMMISSION FOR POST-SECONDARY EDUCATION

1975-76	$ 18,800
1976-77	$ 100,000
1977-78	$ 100,000

24.APPROPRIATIONS NOT OTHERWISE CLASSIFIED

1976-77	$ 1,634,100
1977-78	$ 1,699,100

All items included within the Appropriations Not Otherwise Classified category shall be deemed necessary governmental expenses, and any expenditure over the above amounts is to be paid from the General Fund surplus. Appropriations Not Otherwise Classified includes the following items:

a. Back Tax Collections

b. Board of Claims Awards

Funds are appropriated for the repayment of awards or judgments made by the Board of Claims against departments, boards, commissions, and other agencies maintained by appropriations out of the General Fund. However, awards under $500 in cases where the operating agency admits negligence shall be paid from funds available for the operations of such agencies.

c. Judgments

For payment of such judgments as may be rendered against the Commonwealth by courts and orders of the State Personnel Board; such payments, where applicable, shall be subject to the provisions of KRS Chapter 45.

d. Prior Year Claims

e. Unredeemed Checks Refunded

Checks written by the State Treasurer and not cashed within the statutory period may be presented to the State Treasurer for reissuance in accordance with the provisions of KRS 41.370.

f. Confederate Pensions

g. Blanket Employees Bonds

For payment of premiums on blanket surety bonds as provided by KRS 62.170.

h. Franklin Circuit Court

For purposes of supplies and equipment in accordance with KRS 28.165.

i. Frankfort Planning Commission

j. Frankfort Cemetery

k. Public Improvements

Funds are appropriated for paying assessments for public improvements against property owned by the State, and for which said assessments the State is deemed to be liable.

l. Money Refunded

For refunding money paid into the State Treasury, which may later be determined not to be a lawful collection by the State. No money shall be refunded, however, after it has been paid into the State Treasury except by authority of the head of the department or agency to whom the money was originally paid and with the approval of the Commissioner of the Executive Department for Finance and Administration and the Attorney General.

m. Circuit Courts - Employer Retirement
n. Circuit Courts - Social Security
o. Circuit Court Clerks - Life Insurance
p. Commonwealth Attorneys - Life Insurance
q. Circuit Court Clerks - Health Insurance
r. Commonwealth Attorneys - Health Insurance
s. Police and Firemen - Life Insurance

Funds are appropriated for payment of benefits for state and local police and firemen in accordance with KRS 61.315.

Workmen's Compensation—Circuit Courts and Commonwealth Attorneys

TOTAL - GENERAL GOVERNMENT

1975-76	$ 6,133,800
1976-77	$ 92,833,100
1977-78	$ 97,551,000

B. DEVELOPMENT

25. OFFICE OF THE SECRETARY

1975-76	$ 150,000
1976-77	$ 1,054,400
1977-78	$ 1,125,800

26. KENTUCKY DEPARTMENT OF ENERGY

1975-76	$ 59,600
1976-77	$ 482,600
1977-78	$ 492,300

27. DEPARTMENT OF PARKS

1975-76	$ 1,585,600
1976-77	$ 13,393,500
1977-78	$ 13,645,200

28. DEPARTMENT OF AGRICULTURE

1975-76	$ 49,000
1976-77	$ 4,738,600
1977-78	$ 4,720,100

29. BREAKS INTERSTATE PARK COMMISSION

1976-77	$ 112,500
1977-78	$ 112,500

For matching funds appropriated by the Commonwealth of Virginia relating to construction, maintenance, and operations at the Breaks Interstate Park. In accordance with the Breaks Interstate Compact this appropriation is contingent upon an appropriation by the Commonwealth of Virginia adequate to match this amount on an equal basis; provided, however, that appropriations to date shall be considered cumulatively, and any deficit in appropriations by this state may be removed.

30. COUNCIL OF ECONOMIC ADVISORS

1976-77	$ 92,500
1977-78	$ 92,500

31. DEPARTMENT OF COMMERCE

1975-76	$ 120,000
1976-77	$ 3,687,900
1977-78	$ 3,764,900

32. STATE FAIR BOARD

1975-76	$ 35,000
1976-77	$ 2,512,500

1977-78	$ 4,325,000

33.HISTORICAL EVENTS CELEBRATION COMMISSION

1976-77	$ 152,500

34.KENTUCKY CENTER FOR ENERGY RESEARCH

1975-76	$ 493,600
1976-77	$ 2,888,200
1977-78	$ 2,809,100

35.KENTUCKY INDUSTRIAL DEVELOPMENT FINANCE AUTHORITY

1976-77	$ 7,800,000
1977-78	$ 300,000

For fiscal year 1976-77, $7,500,000 is appropriated for the creation of a multi-county industrial site development program. Any unexpended balance at the close of the 1976-77 fiscal year shall not lapse, but shall continue into 1977-78 fiscal year.

TOTAL - DEVELOPMENT CABINET

1975-76	$ 2,492,800
1976-77	$ 36,915,200
1977-78	$ 31,387,400

C. EDUCATION

36.OFFICE OF THE SECRETARY

1975-76	$ 155,700
1976-77	$ 172,100
1977-78	$ 181,200

37.ARTS COMMISSION

a. General Operations

1976-77	$ 323,200
1977-78	$ 324,200

b. Challenge Grants

1976-77	$ 250,000
1977-78	$ 250,000

To be distributed to local arts fund raising organizations in accordance with applicable regulations promulgated by the Kentucky Arts Commission.

TOTAL - ARTS COMMISSION

1976-77	$ 573,200
1977-78	$ 574,200

38.DEPARTMENT OF EDUCATION

a. General Administration and Support

1975-76	$ 288,800
1976-77	$ 1,710,200
1977-78	$ 1,781,400

b. Education for Exceptional Children

1975-76	$ 40,350
1976-77	$ 1,555,700
1977-78	$ 1,651,300

c. School for the Deaf

1975-76	$ 14,000
1976-77	$ 2,110,700
1977-78	$ 2,282,000

d.
School for the Blind

1976-77	$ 1,035,200
1977-78	$ 1,099,400

e. School Foundation Program

1975-76	$ 6,393,500
1976-77	$404,099,400
1977-78	$448,756,600

Accumulated earnings for the Common School Fund shall each fiscal year be transferred to the School Foundation Program.

The amount to be included for the 1976-77 school year in the Foundation Programs of a district for teachers' salaries shall be determined by multiplying the number of teachers in each rank, not to exceed the number of classroom units allowed, by the amount set forth in the following schedule, for a term of 185 days for each rank:

Rank Experience	I	II	III	IV	V
0-3 years	$ 9,513	$ 8,913	$ 8,313	$6,609	$5,917
4-9 years	10,683	10,083	9,513	6,609	5,917
10 years & over	11,363	10,763	10,183	6,609	5,917

Beginning with the school year 1977-78, the amount to be included in the Foundation Program of a district for teachers' salaries shall be determined by multiplying the number of teachers in each rank, not to exceed the number of classroom units allowed, by the amount set forth in the following allotment schedule, for a term of 185 days, for each rank:

Rank Experience	I	II	III	IV	V
0-3 years	$10,218	$ 9,618	$ 9,018	$7,314	$6,620
4-9 years	11,388	10,788	10,218	7,314	6,620
10 years & over	12,068	11,468	10,888	7,314	6,620

No working budget or salary schedule shall be approved in which the average salary paid any rank of teachers is not at least equivalent to the allotment for that rank, or in which any teacher is paid less than ninety-three percent (93%) of the Foundation Program allotment for that rank, except where there is a decline in local revenue of the district concerned after it has levied the maximum ad valorem property tax rate permitted by law. Any such reduction permitted shall be only for the amount of the decline in local revenue.

In the event any local board of education contends there has been a decline in local tax resources in that district, the State Board of Education shall certify such contention to the Department of Revenue. Said department shall then determine whether or not there has, in fact, been a decline in local tax resources of such district, and, if so, the amount of such decline. The Department of Revenue shall then certify its determination to the State Board of Education, and said Board shall accept such certified determination as final.

The State Board of Education shall not approve any working budget or salary schedule for local boards of education for the school years 1976-77 and 1977-78 in which the total amount budgeted per foundation unit for teachers' salaries is not equal to the amount budgeted for teachers' salaries in 1975-76 plus the additional amount for teachers' salaries received by the district under this appropriation.

The allotment to any school district of classroom units, pursuant to KRS 157.360(1) shall not exceed the number of teachers employed by that school district.

Entitlement for basic classroom units obtained in schools of one classification shall not be allocated to schools of another classification. For the purposes of determining such entitlement, classification shall be as follows:

(1) One-teacher schools;

(2) Schools, other than one-teacher schools, with less than one hundred pupils in average daily attendance; and

(3) Schools, other than one-teacher schools, with more than one hundred pupils in average daily attendance.

In the determination of allotments pursuant to KRS 157.360(2), there shall not be allotted a full classroom unit for any non-isolated one-teacher school with fewer than 27 pupils in average daily attendance, or for any isolated one-teacher school which has fewer than 12 pupils in average daily attendance.

Notwithstanding the provisions of KRS 157.360(5), (6), and (10) the allotments, provision for which is made under this Act, for classroom units shall be as follows:

	1975-76	1976-77	1977-78
Vocational Education	2,230	2,458	2,732
Exceptional Children	2,460	3,260	3,860
Kindergarten	200	350	500

Provided, however, that if classroom units in either category prove to be excessive, the surplus not to exceed fifty (50) such classroom units may be reallocated to the other category by the Superintendent of Public Instruction, upon approval of the State Board of Education and the Governor.

Allotments for classroom units pursuant to KRS 157.360(7) shall only be for those personnel enumerated under said subsection who are qualified for their respective positions under applicable provisions of law and regulations, and who maintain programs which have been approved pursuant to applicable regulations.

The amount to be included in the Foundation Program for other current expenses shall be determined by multiplying the number of classroom units by: $2,189 in the 1976-77 school year, and $2,364 in the 1977-78 school year. Funds appropriated in the 1975-76 school year for current expenses shall be allocated by dividing the total funds appropriated by the total number of classroom units in all categories.

The amount to be included in the Foundation Program for capital outlay shall be determined by multiplying the number of classroom units by: $1,650 in the 1976-77 school year, and $1,700 in the 1977-78 school year.

In accordance with the intent of KRS 162.060 and 162.160, no space shall be rented, purchased, or otherwise acquired and thereafter converted to classroom use without prior appoval of the Superintendent of Public Instruction. The State Board of Education may adopt regulations for the housing of school children; provided, however, that no existing room shall be divided by partitions of non-structural materials. No classroom units shall be allotted for a second teacher in the same classroom. No facilities shall be approved for classroom use which are detrimental to the health of, or dangerous to the safety of, school children.

If a school district operates any school or grade of a school for a term of less than nine and one-quarter (9 1/4) scholastic months or for a school day of less than the minimum required by KRS 158.060, the average daily attendance of such school shall be reduced proportionately by the Superintendent of Public Instruction in determining the allotment of classroom units pursuant to KRS 157.400 and applicable regulations.

Notwithstanding the provisions of KRS 157.400, any undistributed balance in the Foundation Program fund at the end of the fiscal year 1976-77 and 1977-78 shall lapse to the General Fund. Notwithstanding the provisions of KRS 156.650, no unexpended portions of the Foundation Program fund shall be expended at any time for the purpose of KRS 156.610 through 156.650.

Provided, however, that nothing in this Act shall prohibit the Department of Education from distributing these funds in accordance with the provisions of KRS 157A.010 through 157A.990.

Notwithstanding the provisions of KRS 157.370, no funds shall be expended for the purpose of providing transportation beyond the nearest school in which the child can be placed within a local school district to students enrolled in the public schools.

The total appropriation for the Foundation Program shall be measured by, or construed as, estimates of the state expenditures required by KRS 157.310 et. seq. If the required expenditures exceed these estimates, the Commissioner for Finance and Administration, with approval of the Governor, may increase the appropriation by such amount as may be available and necessary to meet, to the extent possible, the required expenditures under the hereinabove cited sections of the Kentucky Revised Statutes; provided, however, that any such increase, or the total appropriation to the Foundation Program is subject to Part V, General Provisions, Section 9, of this Act, and the provisions of KRS 45.160.

f. Power Equalization

1977-78	$ 10,500,000

Such funds are appropriated for the purpose of equalizing expenditures among students in local school districts in accordance with appropriate statutory authority. If enabling legislation is not in effect in fiscal year 1977-78, these funds shall remain unallotted, and, shall lapse to the credit of the General Fund at the end of fiscal year 1977-78.

g. General Instructional Services

1976-77	$ 914,400
1977-78	$ 972,600

h. Free Textbooks

1975-76	$ 8,083,400
1976-77	$ 4,531,900
1977-78	$ 4,868,200

For the purchase of textbooks in accordance with KRS 157.100, et. seq., and applicable regulations. Included in the fiscal year 1975-76 appropriation is $7,583,400 for the purchase of textbooks in public high schools. Any unexpended balance remaining in the high school textbook program at the end of fiscal year 1975-76 shall not lapse but shall continue into fiscal year 1976-77. Likewise any unexpended balance remaining in the high school textbook program at the end of fiscal year 1976-77 shall not lapse, but shall continue into fiscal year 1977-78.

i. Local Administration and Finance

1975-76	$ 167,000
1976-77	$ 989,800
1977-78	$ 961,600

j. Out-of-District Children

1976-77	$ 516,300
1977-78	$ 526,400

Funds are included in the above appropriations for extension of the current program to three day treatment centers and for expansion of the activities from nine and one-quarter (9 1/4) months, to twelve (12) months.

For reimbursement to local school districts for programs provided in accordance with KRS 158.135 and applicable regulations. Provided, however, that if sufficient funds are not available to reimburse each district for the total cost of the services, each allocation shall be reduced in accordance with Part V, General Provisions, Section 9.

k. Teacher Life Insurance

1976-77	$ 619,800
1977-78	$ 632,800

For providing $3,000 of life insurance to each full-time certificated and non-certificated employee of local boards of education.

l. Committee for School District Audits

1976-77	$ 206,300
1977-78	$ 207,900

m. Replacement of Student Fees

1976-77	$ 4,400,000
1977-78	$ 4,600,000

To be distributed to local school districts in accordance with appropriate administrative regulations to be promulgated by the Department of Education, for the replacement of student fees.

n. Teacher Health Insurance

1975-76	$ 8,408,100
1976-77	$ 11,731,600
1977-78	$ 13,487,000

Funds are provided for the purchase of medical insurance for certificated and non-certificated full-time employees of local boards of education pursuant to applicable statutes and regulations.

o. Pupil Personnel Services

1976-77	$ 719,300
1977-78	$ 719,900

p. State School Lunch Assistance

1976-77	$ 3,307,500
1977-78	$ 3,552,500

q. Vocational Education

1975-76	$ 805,100
1976-77	$ 18,363,600
1977-78	$ 18,484,400

Vocational Rehabilitation

1975-76	$ 87,100
1976-77	$ 2,006,800
1977-78	$ 2,095,600

TOTAL - DEPARTMENT OF EDUCATION

1975-76	$ 24,287,350
1976-77	$458,818,500
1977-78	$517,179,600

39. KENTUCKY EDUCATIONAL TELEVISION

a. General Operations

1975-76	$ 204,800
1976-77	$ 4,995,500
1977-78	$ 4,365,800

Any unexpended balance, not to exceed $637,500, at the close of fiscal year 1976-77 shall not lapse, but shall continue into the 1977-78 fiscal year reserved for the production of educational television series.

b. Debt Service

1976-77	$ 618,800
1977-78	$ 616,700

TOTAL - KENTUCKY EDUCATIONAL TELEVISION

1975-76	$ 204,800

1976-77	$ 5,614,300
1977-78	$ 4,982,500

40. HERITAGE COMMISSION

General Operations

1975-76	$ 23,400
1976-77	$ 178,500
1977-78	$ 182,000

b. Survey of Archaeological Sites

1976-77	$ 110,000
1977-78	$ 120,000

Funds are provided for the purpose of conducting a statewide inventory and survey of archaeological sites in Kentucky upon approval of an accepted plan by the Commissioner for Finance and Administration.

TOTAL - HERITAGE COMMISSION

1975-76	$ 23,400
1976-77	$ 288,500
1977-78	$ 302,000

41. HISTORICAL SOCIETY

1975-76	$ 28,100
1976-77	$ 696,700
1977-78	$ 722,900

42. DEPARTMENT OF LIBRARY AND ARCHIVES

1975-76	$ 384,000
1976-77	$ 4,666,500
1977-78	$ 4,672,500

The appropriation in fiscal year 1975-76 is for the purchase of bookmobiles. Any unexpended balance remaining at the close of fiscal year 1975-76 shall not lapse, but shall continue into fiscal year 1976-77.

TOTAL - EDUCATION AND ARTS

1975-76	$ 25,083,350
1976-77	$470,829,800
1977-78	$528,614,900

43. TEACHERS' RETIREMENT SYSTEM

1976-77	$ 53,894,800
1977-78	$ 60,029,100

For administering and complying with the obligations of the state under the Teachers' Retirement Act as provided in KRS 161.220 through 161.710.

44. COUNCIL ON PUBLIC HIGHER EDUCATION

1975-76	$ 515,000
1976-77	$ 8,071,600
1977-78	$ 12,090,700

Included in the $8,071,600 appropriation for the 1976-77 fiscal year is $886,800 for General Administration and Support activities; $3,536,300 for Coordination and Planning activities and $3,648,500 for the Institutional Pools.

Included in the $12,090,700 appropriation for fiscal year 1977-78 is $948,200 for General Administration and Support activities; $3,668,400 for Coordination and Planning activities; and $7,474,100 for the Institutional Pools.

In fiscal year 1976-77, $2,300,000 and in fiscal year 1977-78, $4,600,000 is appropriated to the Council on Public Higher Education for allocation to the institutions of public higher education for undergraduate enrollment growth, which shall be computed based upon the following factors.

1. The Council on Public Higher Education shall submit to Office for Policy and Management, Executive Department for Finance and Administration, on or before May 1 preceeding the fiscal year for which the appropriation is available all cost data, computations and recommendations for distribution of the enrollment growth pool.

2.Recommendations to the Office for Policy and Management for allotment purposes, shall be based upon actual undergraduate credit hour production with a computation of the full time equivalent enrollments in the undergraduate programs for the preceeding fall semester compared to the same data for the fall semester of the prior fiscal year.

3.The Council on Public Higher Education shall also furnish the Office for Policy and Management computations which reflect the total actual cost per credit hour and the amount of that cost which is supported by the state appropriation for the latest fiscal year that the data can be obtained. In furnishing such information the Council on Public Higher Education shall identify separately data regarding the University of Kentucky Community College system.

4.There is hereby established for calculation and distribution purposes an enrollment growth pool base year. This base year shall be defined as the level of undergraduate enrollments for the fall semester 1975 as calculated by the Council on Public Higher Education.

5.Enrollment growth computations after fiscal year 1975-76 shall be expressed as factors of this base. Allocations for enrollment increases over this base shall be reduced by allotments already received since the establishment of the base, except that any allotment, for this purpose, for a preceeding year shall not be reduced.

6.The amount to be distributed to each institution shall be based upon the analysis of cost as determined by the Council for the preceeding fiscal year. The amounts may be distributed based upon the actual growth, if any, in the number of credit hours produced or increases in under graduate full time equivalent (FTE) enrollment, whichever is less.

In fiscal year 1976-77, $1,348,500, and in fiscal year 1977-78 $2,874,100, is appropriated to the Council on Public Higher Education for allocation to the University of Louisville for tuition income replacement resulting from a reduction of tuition charges, $100 each fiscal year for regular in-state undergraduate, graduate and law school students; this appropriation also includes necessary funds to reduce in-state summer school tuition charges $50 each fiscal year. Any balance remaining in the tuition reduction account at the close of fiscal year 1976-77 shall not lapse, but shall continue into fiscal year 1977-78.

45.HIGHER EDUCATION ASSISTANCE AUTHORITY

1975-76	$ 78,500
1976-77	$ 3,940,700
1977-78	$ 3,756,400

Of the appropriations $1,500,000 in fiscal year 1976-77 and $1,000,000 in fiscal year 1977-78 shall be used for the revolving Student Loan Program. Also $1,400,000 is appropriated in fiscal year 1976-77, and $1,600,000 is appropriated in fiscal year 1977-78 for the State Student Incentive Grant Program. The Kentucky Tuition Grant Program is appropriated $700,000 in fiscal year 1976-77 and $800,000 in fiscal year 1977-78.

46.UNIVERSITY OF KENTUCKY

1975-76	$ 1,691,357
1976-77	$ 87,419,000
1977-78	$ 92,949,600

47.UNIVERSITY OF LOUISVILLE

1975-76	$ 2,613,942
1976-77	$ 36,056,800
1977-78	$ 39,293,600

48.EASTERN KENTUCKY UNIVERSITY

1975-76	$ 522,361
1976-77	$ 21,685,200
1977-78	$ 23,043,500

49.WESTERN KENTUCKY UNIVERSITY

1975-76	$ 262,580
1976-77	$ 21,060,900
1977-78	$ 22,258,300

50.MOREHEAD STATE UNIVERSITY

1975-76	$ 208,201
1976-77	$ 13,444,600
1977-78	$ 14,342,300

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51. MURRAY STATE UNIVERSITY

1975-76	$ 275,334
1976-77	$ 15,068,300
1977-78	$ 16,177,800

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52. KENTUCKY STATE UNIVERSITY

1975-76	$ 235,945
1976-77	$ 5,872,500
1977-78	$ 6,331,600

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53. NORTHERN KENTUCKY STATE COLLEGE

1975-76	$ 225,107
1976-77	$ 9,344,600
1977-78	$ 10,149,200

TOTAL - PUBLIC HIGHER EDUCATION

1975-76	$ 6,628,327
1976-77	$221,964,200
1977-78	$240,393,000

D. HUMAN RESOURCES

54. DEPARTMENT FOR HUMAN RESOURCES

a. Bureau for Social Insurance

1. Administration

1976-77	$ 14,984,900
1977-78	$ 15,706,200

In the event that any portion of this appropriation in either fiscal year is deemed to be in excess of the necessary expenses for administration of the bureau, such amount, with the approval of the Governor, may be used for Public Assistance Benefits to the needy in accordance with the statutes governing the functions and activities of the Bureau for Social Insurance. However, in no instance shall these excess funds be used to:

1.
establish a new program,
2.
expand the services of an existing program,
3.
increase rates or payment levels in an existing program, without the prior written approval of the Governor. Notwithstanding KRS 45.235, any unexpended balance not used for Public Assistance Benefits remaining at the close of the 1976-77 fiscal year shall lapse.

2.
Benefits

1975-76	$ 2,025,500
1976-77	$114,502,900
1977-78	$130,284,200

To be used for the payment of benefits in accordance with the statutes governing the functions and activities of the Bureau for Social Insurance. No portion of this appropriation may be used for the costs of administration except with the prior written approval of the Governor. However, in no instance shall the unexpended balance carried forward, as provided by KRS 45.235, or any portion thereof be used to:

1.
establish a new program,
2.
expand the services of an existing program,
3.
increase rates or payment levels in an existing program, without the prior written approval of the Governor.

All medical assistance vendor statements for services rendered as a result of bona fide claims for medical care may be paid in the fiscal year in which such statements are received by the paying agency.

b.
Bureau for Manpower Services

1976-77	$ 385,000

1977-78	$ 580,000

c.
Bureau for Health Services

1975-76	$ 4,471,142
1976-77	$ 49,528,500
1977-78	$ 49,857,600

d.
Bureau for Social Services

1975-76	$ 106,800
1976-77	$ 20,187,700
1977-78	$ 22,823,400

e.
General Administration and Support

1976-77	$ 8,514,000
1977-78	$ 8,514,000

TOTAL—HUMAN RESOURCES

1975-76	$ 6,603,442
1976-77	$208,103,000
1977-78	$227,765,400

E. JUDICIARY

55. JUDICIARY

1975-76	$ 587,000
1976-77	$ 8,265,300
1977-78	$ 7,469,400

Any expense in excess of the above appropriations for the purposes of the Supreme Court, Court of Appeals, Circuit Court, Clerk of the Supreme Court, and Clerk of the Court of Appeals shall be deemed a necessary governmental expense.

F. JUSTICE

56. DEPARTMENT OF JUSTICE

a.
Bureau of Training

1976-77	$ 1,387,000
1977-78	$ 1,477,700

b.
Bureau of Corrections

1975-76	$ 1,010,500
1976-77	$ 19,742,900
1977-78	$ 20,457,000

c.
Bureau of State Police

1975-76	$ 3,269,900
1976-77	$ 28,443,000
1977-78	$ 28,880,500

d.
Public Defender

1976-77	$ 2,081,100
1977-78	$ 2,203,900

e.
General Administration and Support

1976-77	$ 7,242,700
1977-78	$ 7,712,300

TOTAL—DEPARTMENT OF JUSTICE

1975-76	$ 4,280,400
1976-77	$ 58,896,700
1977-78	$ 60,731,400

G. NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION

57. DEPARTMENT FOR NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION

a. Bureau of Land Resources

1975-76	$ 655,200
1976-77	$ 8,367,600
1977-78	$ 7,063,100

The appropriation for fiscal year 1976-77 includes $1,000,000 for the Equipment Revolving Fund, any unexpended balance at the close of fiscal year 1976-77 shall not lapse, but shall continue into fiscal year 1977-78. Also, in fiscal year 1976-77 $250,000 is included for urban flood planning activities, any unexpended balance at the close of fiscal year 1976-77 shall not lapse, but shall continue into the 1977-78 fiscal year.

Not less than $60,000 of the appropriation for each fiscal year shall be set aside for emergency forest fire suppression. Any expenditure for emergency fire suppression in excess of the amount in either fiscal year is hereby declared to be a necessary governmental expense; provided, however, that an emergency situation shall have been declared to exist by the Governor.

b.

Bureau of Environmental Quality

1976-77	$ 4,127,800
1977-78	$ 4,357,500

c.

General Administration and Support

1976-77	$ 1,328,800
1977-78	$ 1,318,200

TOTAL - DEPARTMENT FOR NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION

1975-76	$ 655,200
1976-77	$ 13,824,200
1977-78	$ 12,738,800

58.

ENVIRONMENTAL QUALITY COMMISSION

1975-76	$ 23,800
1976-77	$ 47,500
1977-78	$ 47,500

TOTAL - NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION

1975-76	$ 679,000
1976-77	$ 13,871,700
1977-78	$ 12,786,300

H. PUBLIC PROTECTION AND REGULATION

59.

OFFICE OF THE SECRETARY

1976-77	$ 145,700
1977-78	$ 154,400

60.

DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL

1975-76	$ 23,500
1976-77	$ 691,600
1977-78	$ 698,100

61.

DEPARTMENT OF BANKING AND SECURITIES

1975-76	$ 12,000
1976-77	$ 1,361,400
1977-78	$ 1,422,000

Notwithstanding the provision of KRS 47.130, receipts collected by the Department shall be paid into the General Fund.

62.

BOARD OF TAX APPEALS

1976-77	$ 95,300
1977-78	$ 95,300

63.

DEPARTMENT OF INSURANCE

1975-76	$ 60,000
1976-77	$ 3,233,400
1977-78	$ 3,429,400

64.

DEPARTMENT OF LABOR

1975-76	$ 53,400
1976-77	$ 1,040,600
1977-78	$ 1,040,100

Funds are appropriated for the general operations of the Department of Labor; provided, however, that the amount of General Fund support for the Division of Research and Statistics and the Division of Fiscal and Personnel shall not exceed twenty-five percent (25%) of the total cost of these divisions.

65.

REGISTRY OF ELECTION FINANCE

1975-76	$ 34,600
1976-77	$ 130,100
1977-78	$ 133,100

66.

DEPARTMENT OF MINES AND MINERALS

1975-76	$ 6,700
1976-77	$ 1,315,900
1977-78	$ 1,323,900

67.

PUBLIC SERVICE COMMISSION

1976-77	$ 1,294,500
1977-78	$ 1,344,900

68.

KENTUCKY QUARTER HORSE AND APPALOOSA COMMISSION

1975-76	$ 4,000
1976-77	$ 10,000
1977-78	$ 10,000

69.

KENTUCKY STATE RACING COMMISSION

1976-77	$ 166,900
1977-78	$ 166,900

70.

KENTUCKY HARNESS RACING COMMISSION

1976-77	$ 182,700
1977-78	$ 182,700

71.

KENTUCKY HORSE COUNCIL

1975-76	$ 56,000
1976-77	$ 73,600
1977-78	$ 46,800

TOTAL—PUBLIC PROTECTION AND REGULATION

1975-76	$ 250,200
1976-77	$ 9,741,700
1977-78	$ 10,047,600

I. TRANSPORTATION

72.

DEPARTMENT OF TRANSPORTATION

a.

Air Transportation

1975-76	$ 356,200
1976-77	$ 3,789,700
1977-78	$ 3,025,400

The appropriation for fiscal year 1976-77 includes $2,772,400 and for fiscal year 1977-78, $1,976,600 for the Airport Development Fund. Also, in fiscal year 1976-77 $200,000, is included for the Airport Development Loan Fund. The total General Fund appropriation stated above may be transferred for administrative purposes to the Transportation Fund for allotment and expenditure.

b.

Water Transportation

1975-76	$ 338,500
1976-77	$ 923,600
1977-78	$ 947,600

The total General Fund appropriation stated above may be transferred for administrative purposes to the Transportation Fund for allotment and expenditure.

c.

Rail Transportation

1976-77	$ 51,600
1977-78	$ 51,600

The total General Fund appropriation stated above may be transferred for administrative purposes to the Transportation Fund for allotment and expenditure.

d.

Mass Transportation

1976-77	$ 2,103,400
1977-78	$ 2,103,400

The appropriation in fiscal years 1976-77 and 1977-78 includes $1,700,000 each year for the purchase of general municipal transportation vehicles, and the construction of municipal vehicle garages. $200,000 of the above appropriations each year shall be used for the transportation of the elderly and handicapped. The total General Fund appropriation stated above may be transferred for administrative purposes to the Transportation Fund for allotment and expenditure.

e.

General Administration and Support

1976-77	$ 804,200
1977-78	$ 804,200

The total General Fund appropriation stated above may be transferred for administrative purposes to the Transportation Fund for allotment and expenditure.

f.

Highways

1f.

Bureau of Highways

1976-77	$ 8,000,000
1977-78	$ 8,000,000

The appropriation in fiscal year 1976-77 and 1977-78 includes $1,000,000 each year for the planning, land acquisition, and construction of bikeways and related facilities. Also, appropriated in fiscal years 1976-77 and 1977-78 is $7,000,000 each year for planning, land acquisition, and construction of the Jefferson Freeway. The total General Fund appropriation stated above may be transferred for administrative purposes to the Transportation Fund for allotment and expenditures.

2f.

Bureau of Vehicle Regulation

(Except Division of Water Enforcement)

1976-77	$ 3,606,600
1977-78	$ 3,268,000

The total General Fund appropriation stated above may be transferred for administrative purposes to the Transportation Fund for allotment and expenditure.

3f. Energy Road Fund

1976-77	$ 12,000,000
1977-78	$ 13,000,000

These funds are appropriated to the Energy Road Fund. This fund shall be used for the construction or reconstruction, repair and maintenance of any public highway, road, street or bridge in "coal producing counties" as defined by law. Any balance remaining in the Fund at the close of fiscal year 1976-77 shall not lapse, but shall continue into fiscal year 1977-78.

TOTAL—DEPARTMENT OF TRANSPORTATION

1975-76	$ 694,700
1976-77	$ 31,279,100
1977-78	$ 31,200,200

PART II

TRUST AND AGENCY FUNDS

There is appropriated to the various officers, cabinets, departments, boards, commissions, institutions, subdivisions, and other agencies of the State Government only as are listed herein for the fiscal year ending June 30, 1977, and for the fiscal year ending June 30, 1978, all of the fees (which include fees for board and room, athletics, and student activities) and rental, admittances, sales, bond proceeds, licenses collected by law, gifts, subventions, Federal grants and other Federal funds received, contributions, income from investments and other miscellaneous receipts produced or received by any of the following agencies of the State Goverment, except as otherwise specifically provided, for the use and benefit of each of the below-named agencies of the State Government for the purposes for which each fund is authorized. Receipts which are received by each of the respective agencies of the State Government listed herein shall be placed to the credit of a Trust and Revolving, or an Agency Fund out of which shall be established separate Trust and Revolving or Agency Fund accounts for the use and benefit of these agencies of the State Government for purposes for which each fund is authorized. All funds received are appropriated and shall be deposited in the State Treasury and credited to the proper account as provided by KRS Chapters 12, 42, and 45.

In the event receipts received and credited to any Trust and Revolving or Agency Fund account during fiscal year 1976-77 or fiscal year 1977-78 and any balance forwarded to the credit of any such account from the previous fiscal year exceed the appropriation made by specific sum to said account for the fiscal year in which the excess occurs; provided, however, that with the exception of Federal grants and other Federal funds received, said excess shall become available for expenditure for the purpose of the account during said year only with the authorization of the Executive Director of the Office for Policy and Management upon approval of the Commissioner for Finance and Administration.

Except as herein otherwise provided, the appropriate agency may requisition for expenditure from the Trust and Revolving or Agency Fund account, through the Department for Finance and Administration, during the fiscal year ending June 30, 1977, and during the fiscal year ending June 30, 1978, all receipts placed to the credit of the Trust and Revolving or Agency Fund for such year, out of which has been established a Trust and Revolving or Agency Fund account for each separate agency during such fiscal year, in addition to any balance which said agency may have had forwarded from the preceding year on or before August 31, of the then current fiscal year, by the Department for Finance and Administration. On or before the beginning of each fiscal year, each agency shall submit to the Department for Finance and Administration schedules showing estimated receipts and estimated expenditures by quarterly period.

A. GENERAL GOVERNMENT

1. AUDITOR OF PUBLIC ACCOUNTS

2. SECRETARY OF STATE

Notwithstanding the provisions of KRS 271A.625, KRS 271A.630, KRS 271A.635, and KRS 56.300; all the operating receipts from all activities of the office of the Secretary of State shall be deposited in the State Treasury to the credit of the General Fund.

3. CAPITAL PLAZA

a. Commercial Area

1976-77	$ 90,700
1977-78	$ 93,200

b. Recreation and Entertainment Facilities

1976-77 .... $ 126,500

1977-78 .... $ 130,200

c. Debt Service

4.

COUNTY COSTS

a.

Expense allowance for Commonwealth Attorneys, County Attorneys, and County Judges ------- 5.

EXECUTIVE DEPARTMENT FOR FINANCE AND ADMINISTRATION --- 6.

KENTUCKY RETIREMENT SYSTEMS

1976-77 .... $ 587,400

1977-78 .... $ 617,900

7. OCCUPATIONAL AND PROFESSIONAL BOARDS AND COMMISSIONS

		1976-77	1977-78
a.	Board of Accountancy	$ 80,700	$ 84,300
b.	Board of Architects	$ 36,400	$ 36,400
c.	Board of Auctioneers	$ 27,000	$ 27,000
d.	Board of Barbers	$ 70,900	$ 74,900
e.	Board of Business Schools	$ 7,200	$ 4,500
f.	Board of Chiropractic Examiners	$ 20,800	$ 20,800
g.	Board of Dental Examiners	$ 70,800	$ 73,000
h.	Board of Embalmers and Funeral Directors	$ 34,000	$ 35,000
i.	Board of Engineers and Land Surveyors	$114,400	$112,500
j.	Board of Hairdressers and Cosmetologists	$261,600	$274,400
k.	Board of Hearing Aid Dealers	$ 15,300	$ 15,100
l.	Board of Landscape Architecture	$ 8,200	$ 8,200
m.	Board of Medical Licensure	$143,500	$145,500
n.	Board of Nurses	$269,900	$277,600
o.	Nursing Home Administrators Licensure Board	$ 24,500	$ 26,300
p.	Board of Ophthalmic Dispensers	$ 5,700	$ 5,800
q.	Board of Optometric Examiners	$ 11,700	$ 11,700
r.	Board of Pharmacy	$135,500	$142,300
s.	Board of Physical Therapy	$ 7,300	$ 8,100
t.	Board of Podiatry	$ 1,000	$ 1,000
u.	Board of Psychology	$ 14,700	$ 16,100
v.	Real Estate Commission		
	1. Examination and Licensing	$195,300	$205,000
	2. Real Estate Education Research and Recovery	$282,900	$286,400
w.	Board of Social Workers	$ 18,200	$ 23,400
x.	Board of Speech Pathologists and Audiologists	$ 4,000	$ 3,800

y.	Board of Veterinary Examiners	$ 11,000	$ 11,000
z.	Board of Watchmaking	$ 7,100	$ 7,100

8. DEPARTMENT OF PERSONNEL

9. DEPARTMENT OF REVENUE

10. COUNTY FEES

County Fees for the following counties: Jefferson, Kenton, Fayette, Campbell, and Daviess are for paying the various officials of each county enumerated, seventy-five percent (75 percent) of the fees provided by law to be paid, by the State, to these officials when their claims for fees have been presented to the Executive Department for Finance and Administration in the form and manner prescribed by law and approved by the Commissioner of the Executive Department for Finance and Administration, and to pay the Fiscal Court of each of said counties twenty-five percent (25 percent) of said fees as required by KRS 64.350.

11. MILITARY AFFAIRS

12. COMMISSION FOR POST-SECONDARY EDUCATION

B. DEVELOPMENT

13. OFFICE OF THE SECRETARY

1976-77	$ 10,000
1977-78	$ 185,000

14. DEPARTMENT OF PARKS

1976-77	$ 15,324,500
1977-78	$ 16,082,200

15. DEPARTMENT OF AGRICULTURE

1976-77	$ 928,100
1977-78	$ 961,600

16. DEPARTMENT OF FISH AND WILDLIFE

17. DEPARTMENT OF COMMERCE

1976-77	$ 216,100
1977-78	$ 216,200

18. STATE FAIR BOARD

19. HISTORICAL EVENTS CELEBRATION COMMISSION

20. KENTUCKY CENTER FOR ENERGY RESEARCH

1976-77	$ 809,200
1977-78	$ 977,800

21. KENTUCKY INDUSTRIAL DEVELOPMENT FINANCE AUTHORITY

1976-77	$ 375,000
1977-78	$ 372,700

22. DEPARTMENT OF ENERGY

C. EDUCATION

23. ADVISORY COUNCIL FOR VOCATIONAL EDUCATION

24. OFFICE OF THE SECRETARY

25. ARTS COMMISSION

26. DEPARTMENT OF EDUCATION

a. General Administration and Support

1976-77	$ 4,794,200
1977-78	$ 4,903,100

b. Education for Exceptional Children

1976-77	$ 1,874,900
1977-78	$ 1,869,900

c. General Instructional Services

1976-77	$ 37,460,500
1977-78	$ 37,779,200

d. Local Administration and Finance

1976-77	$ 890,200
1977-78	$ 925,000

e. Pupil Personnel Services

f. School Food Services

1976-77	$ 46,697,500
1977-78	$ 48,983,300

g. Vocational Education

1976-77	$ 15,977,600
1977-78	$ 16,077,400

h. Vocational Rehabilitation

1976-77	$ 20,914,700
1977-78	$ 22,723,800

27.KENTUCKY EDUCATIONAL TELEVISION

28.HERITAGE COMMISSION

1976-77	$ 608,500
1977-78	$ 672,000

29.HISTORICAL SOCIETY

1976-77	$ 155,200
1977-78	$ 161,400

30.DEPARTMENT OF LIBRARY AND ARCHIVES

1976-77	$ 865,200
1977-78	$ 865,200

31.TEACHERS' RETIREMENT SYSTEM

32.COUNCIL ON PUBLIC HIGHER EDUCATION

33.HIGHER EDUCATIONAL ASSISTANCE AUTHORITY

34.COMMISSION OF HIGHER EDUCATION

35.UNIVERSITY OF KENTUCKY

36.UNIVERSITY OF LOUISVILLE

37.EASTERN KENTUCKY UNIVERSITY

38.WESTERN KENTUCKY UNIVERSITY

39.MOREHEAD STATE UNIVERSITY

40.MURRAY STATE UNIVERSITY

41.KENTUCKY STATE UNIVERSITY

42.NORTHERN KENTUCKY STATE COLLEGE

D. HUMAN RESOURCES

43. DEPARTMENT FOR HUMAN RESOURCES

a. Bureau for Social Insurance		
	1976-77	$441,136,200
	1977-78	$463,236,700
b. Bureau for Manpower Services		
	1976-77	$ 38,857,900
	1977-78	$ 42,418,500
c. Bureau for Health Services		
	1976-77	$ 36,910,900
	1977-78	$ 39,247,400
d. Bureau for Social Services		
	1976-77	$ 48,196,800
	1977-78	$ 48,677,700
e. General Administration and Support		
	1976-77	$ 16,850,300
	1977-78	$ 18,167,700

E. JUDICIARY

44. JUDICIARY

	1976-77	$ 2,320,600
	1977-78	$ 2,321,300

F. JUSTICE

45. DEPARTMENT OF JUSTICE

a. Bureau of Training		
	1976-77	$ 3,000
	1977-78	$ 2,000
b. Bureau of Corrections		
	1976-77	$ 2,556,100
	1977-78	$ 2,657,000
c. Bureau of State Police		
	1976-77	$ 225,100
	1977-78	$ 225,100
d. Public Defender		
	1976-77	$ 1,500
	1977-78	$ 1,500
e. General Administration and Support		
	1976-77	$ 10,690,700
	1977-78	$ 10,560,800

G. NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION

46. DEPARTMENT FOR NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION

a. Bureau of Land Resources		
	1976-77	$ 1,720,100
	1977-78	$ 1,720,100
b. Bureau of Environmental Quality		
	1976-77	$ 2,408,500
	1977-78	$ 2,437,500

H. PUBLIC PROTECTION AND REGULATION

47. DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL

	1976-77	$ 3,000
	1977-78	$ 3,000

48. DEPARTMENT OF INSURANCE

49. DEPARTMENT OF LABOR

a. Occupational Safety and Health

1976-77 $ 2,955,500
1977-78 $ 3,135,500

b. Board of Claims
c. Special Fund
d. Elevator Safety

1976-77 $ 16,000
1977-78 $ 16,000

e. Workmen's Compensation Board

1976-77 $ 1,406,800
1977-78 $ 1,520,300

For the general operations of the Workmen's Compensation Board and administrative services provided to the Board through the General Administration and Support program.

f. Uninsured Employers Fund

50. DEPARTMENT OF MINES AND MINERALS

1976-77 $ 421,000
1977-78 $ 428,000

51. KENTUCKY QUARTER HORSE AND APPALOOSA COMMISSION

52. KENTUCKY STATE RACING COMMISSION

53. KENTUCKY HARNESS RACING COMMISSION

54. PUBLIC SERVICE COMMISSION

1976-77 $ 285,500
1977-78 $ 299,100

I. TRANSPORTATION

55. DEPARTMENT OF TRANSPORTATION

a. Air Transportation

1976-77 $ 206,000
1977-78 $ 216,500

b. Water Transportation
c. Rail Transportation
d. Mass Transportation
e. General Administration
f. Highways
  1f. Bureau of Highways
  2f. Bureau of Vehicle Regulation

1976-77 $ 1,308,800
1977-78 $ 1,297,200

PART III

TRANSPORTATION FUND

Monies in the Transportation Fund are appropriated for use by the Department of Transportation in its activities, functions, and duties performed by it as prescribed by law. The Transportation Fund shall consist of all the state revenues realized from fees, taxes, and license fees levied for state road purposes authorized by law, and any additional or other revenues, grants, or funds, including any amount which may be received from Federal aid, bond funds, General Funds appropriated, or any other sources pursuant to the provisions of KRS 177.030, made available for the construction or reconstruction of public roads or for any other of the activities administered by the Department of Transportation. Such receipts and revenues, and unappropriated surplus, together with any balance as of June 30, 1976, shall constitute the Transportation Fund for the fiscal years 1976-77 and 1977-78 respectively. An annual budget for each fiscal year shall be submitted by the Department of Transportation to the Executive Department for Finance and Administration for approval by June 1, 1976, for fiscal year 1976-77 and by June 1, 1977, for fiscal year 1977-78. The budget shall be based upon the most current State Road Fund estimates and Surplus, estimates of contractual and noncontractual Federal aid, General Fund appropriated, or funds and fees from any other source.

In the event the State Road Fund estimates are revised during the biennium the Department of Transportation shall submit its annual budget based upon the new estimates. These estimates are to be certified by the Commissioner of Revenue to the Commissioner for Finance and Administration and upon the approval of the Governor the Commissioner for Finance and Administration shall make the appropriate increases or decreases to the Department of Transportation's annual budget. If the State Road Fund estimates are increased or decreased during a fiscal year the Department of Transportation shall request from the

Department for Finance and Administration with approval of the Governor authority to increase or decrease its annual budget in accordance with Part V, General Provisions, Section 9 of this Act. The following monies are appropriated from the State Road Fund.

A. TRANSPORTATION

1. DEPARTMENT OF TRANSPORTATION
  a. General Administration
    1976-77 $ 28,826,800
    1977-78 $ 30,984,000
  b. Highways
    1b. Bureau of Highways
      1976-77 $282,908,200
      1977-78 $290,801,000
      1a. Rural Highways

1.County Road Aid. For construction, reconstruction, improvement, and maintenance of county roads and bridges the designated portion of all revenue received pursuant to KRS 138.220 and 138.565 shall be expended in accordance with KRS 177.320(2). These funds shall be distributed in accordance with the formula prescribed by the provisions of KRS 177.360.

2.Rural Secondary Roads. For construction, reconstruction, and maintenance of rural and secondary roads, the designated portion of all revenue received pursuant to the provisions of KRS 138.220 and 138.565, shall be expended in accordance with KRS 177.320. These funds shall be distributed in accordance with the formula prescribed by the provisions of KRS 177.360.

1b. Municipal Aid. For the construction, reconstruction, and maintenance of urban roads, streets, and bridges, the designated amounts received pursuant to the provisions of KRS 138.220 and 138.565, shall be expended and distributed in accordance with KRS 177.365 through 177.368.

2. BUREAU OF VEHICLE REGULATION
  (Except Division of Water Enforcement)
    1976-77 $ 960,000
    1977-78 $ 960,000
  Total - Highways
    1976-77 $283,868,200
    1977-78 $322,745,000
  Total - Department of Transportation
    1976-77 $312,695,000
    1977-78 $291,761,000

PART IV
CAPITAL CONSTRUCTION FUND
A. GENERAL FUND

1. EXECUTIVE DEPARTMENT FOR FINANCE AND ADMINISTRATION
    1975-76 $ 44,326,600
    1976-77 $ 67,507,500
    1977-78 $ 30,252,600

Monies are appropriated for capital projects among those enumerated in the budget document and among those capital projects previously and partially funded by the 1974 General Assembly consisting of general construction, renovation, maintenance, improvements, property acquisition, major items of equipment, and administrative costs relating to the design, construction, and supervision of such capital projects, including, but not limited to, reclamation and industrial development projects and loans and grants in aid for capital purposes. the provisions of subsection (9) of KRS 45.040 notwithstanding, excluding however consumable and other usable supplies. Those projects set forth in the budget document under the sub-heading "colleges and universities" are subject to substitution upon action of the Council on Public Higher Education and subject to the approval of the Executive Department for Finance and Administration.

All monies transferred to the Executive Department for Finance and Administration for capital construction from any appropriations, including income from investments, shall be expended, accounted for, and otherwise treated in the same manner as funds appropriated directly to the Executive Department for Finance and Administration for capital construction.

If at the end of any fiscal year the monies and securities to the credit of the State Fire and Tornado Insurance Fund exceed $2,000,000 and if conditions with respect to life and fire safety in state properties are such as not to require the expenditure of all excess funds for improvements to said conditions, then the Commissioner of the Executive Department for Finance and Administration, with the concurrence of the Commissioner of Insurance, shall determine the amount of such excess not so required and may authorize its transfer to the Capital Construction Fund, for expenditure in accordance with the provisions of Chapter 56 of the Kentucky Revised Statutes.

B. FEDERAL REVENUE SHARING

2. EXECUTIVE DEPARTMENT FOR FINANCE AND ADMINISTRATION

1976-77	$ 46,290,800
1977-78	$ 36,850,000

The receipt of Federal Revenue Sharing funds is dependent upon the extension by the United States Congress, of the State and Local Fiscal Assistance Act of 1972 or some other Federal Revenue Sharing proposal. In the event these monies, or any portion thereof, are not made available to the Commonwealth, the Commissioner of the Executive Department for Finance and Administration shall take appropriate action as required by Part V, General Provisions, Section 9 of this Act.

PART V
GENERAL PROVISIONS

1.

Nothing in this Act shall be construed to repeal any appropriation made hereinbefore or hereinafter for the fiscal year ending June 30, 1976, and nothing in this Act is to be construed as amending or altering the provisions of Chapters 42 and 45 of the Kentucky Revised Statutes pertaining to the duties and powers of the Commissioner of the Executive Department for Finance and Administration. All questions that arise in interpreting any appropriation in this Act as to the purpose or manner for which such appropriation may be expended shall be decided by the Commissioner for Finance and Administration in accordance with the detailed estimates embodied in the Executive Budget 1976-78 and supporting work papers, as considered by the General Assembly, and the decision of the Commissioner of the Executive Department for Finance and Administration shall be final and conclusive.

2.

In enacting this Appropriation Act, it is the deliberate intention of the General Assembly to enact each section, and each subsection thereof as a separate and/or specific appropriation and law, and if any section, any subsection, or any provision thereof shall be held invalid or unconstitutional, the decision of the courts shall not affect or impair any of the remaining sections, subsections, or provisions contained herein.

3.

The Commissioner of the Executive Department for Finance and Administration is authorized to establish a system or formula or a combination of both for pro-rating the administrative costs of the Department of Personnel, Executive Department for Finance and Administration, Treasury, and Law relative to the administration of programs in which there is joint participation by the State and Federal Governments for the purpose of receiving the maximum amount of participation permitted under the appropriate Federal laws and regulations governing such programs. Any reimbursements received from Federal Funds under this system or formula shall accrue to the General Fund and any system or formula for the proration shall be developed pursuant to the provisions of KRS 18.330.

4.

All continuing appropriations in existence at the time this Act takes effect are discontinued and repealed by this Act, notwithstanding any provisions of the Kentucky Revised Statutes to the contrary, except as provided by Chapters 12, 42, 56, 152, 177 and 341 of the Kentucky Revised Statutes. All laws and portions of laws in conflict with any of the provisions of this Section, to the extent of such conflict, are hereby repealed.

5.

At such time as the Congress of the United States may enact into law a provision increasing or extending coverage of Federal minimum wage requirements now in effect, the Commissioner of the Executive Department for Finance and Administration with the approval of the Governor, shall be authorized to pay, out of any available General Fund Surplus, to those state employees affected by such increase, an amount necessary to raise their respective compensation to a level consistent with the requirements of any such newly enacted provision increasing minimum wage requirements.

6.

Funds necessary to continue existing revolving accounts are appropriated for each fiscal year of the 1976-78 biennium. Any surplus funds in any such account at the closing of books for the fiscal year shall lapse. If any revolving account is abolished, or funds therein are lapsed during the 1976-78 biennium, such funds shall lapse to the General Fund if such General Funds were in part or in whole used to establish or sustain the revolving fund. If no general funds were involved, funds shall be returned to the original source.

7.

No state agency, cabinet, department, office or program shall incur any obligation against the general fund appropriations contained herein unless such obligation may be reasonably determined to have been contemplated in the Governor's budget proposal and is supported by appropriate work papers and other records pertaining thereto.

8.

Any appropriation made herein by the General Fund in anticipation of loss or reduction of Federal grants shall lapse to the General Fund to the extent such Federal funds otherwise become available.

9.

Whereas, inasmuch as the finances of the Commonwealth cannot be ascertained with absolute certainty at this time, and since the actual needs of each officer, cabinet, department, board, commission, institution, agency or other activity or subdivision of state government can only be anticipated and not finally determined by the General Assembly, and since the total amount of revenue accruing to the General Fund and to the Transportation Fund and accruing from various fees or from Federal funds from which appropriations are made can only be anticipated as being produced through existing laws and those that may hereafter be enacted, and recognizing the complex nature of the economy, it is the purpose and intention of this Act that the expenditures for each fiscal year shall not exceed the total financial resources accruing to any Fund, as defined in KRS Chapter 45, for the same fiscal year. As the conditions cannot be fully determined until after the adjournment of the 1976 General Assembly, and as the needs of each officer, cabinet, department, board, agency, commission, institution, subdivision or activity of state government, together with the total financial resources accruing to the General Fund and the Transportation Fund cannot be fully determined at this time, it is the intention and purpose of this General Assembly that the Commissioner of the Executive Department for Finance and Administration, with the advice of the Commissioner of the Department of Revenue, upon approval of the Governor of the Commonwealth, is authorized, empowered and directed to ascertain and determine the needs of each officer, cabinet, department, board, commission, institution, subdivision, agency or other activity of state government and to ascertain the total financial resources anticipated to be accrued to the General Fund and the Transportation Fund of the Commonwealth, and upon the ascertainment and determination of said facts, he, the Commissioner of the Executive Department for Finance and Administration, in the manner set forth as provided by general law, is authorized, empowered, and directed by the General Assembly to prevent an overdraft or deficit in any fiscal year for which appropriations are herein made, by equitably reducing, according to needs, without discrimination, the appropriations herein made from the General Fund and Transportation Fund to each officer, cabinet, department, board, commission, institution, subdivision, agency or other activity in state government, provided, however, that the power invested shall not permit any reduction of the appropriations of any officer, cabinet, department, board, commission, institution, subdivision, agency or other activity of state government that will actually impair the necessary constitutional functions of such agency or activity, the operations and functions of which are determined to be necessary constitutional functions of state government.

The Committee on Judiciary-Courts reported **HB 261,** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Ordered referred to the Committee on Rules.

The Committee Substitute for **HB 261** is as follows:

HB 261, AN ACT relating to child custody.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 403.260 is amended to read as follows:

(1) A court of this state competent to decide child custody matters has jurisdiction to make a child custody determination by initial or modification decree if:

(a) This state *is*[:

1. Is] the home state of the child at the time of commencement of the proceeding; or

[2. Had been the child's home state within 6 months before commencement of the proceeding and the child is absent from this state because of his removal or retention by a person claiming his custody or for other reason, and a parent or person acting as parent continues to live in this state; or]

(b) It is in the best interest of the child that a court of this state assume jurisdiction because:

1. The child and his parents, or the child and at least one contestant, have a significant connection with this state; and

2. There is available in this state substantial evidence concerning the child's present future care, protection, training, and personal relationships; or

(c) The child is physically present in this state; and

1. Has been abandoned; or

2. It is necessary in an emergency to protect him because he has been subjected to or threatened with mistreatment or abuse or is neglected or dependent; or

(d) 1. No other state has jurisdiction under prerequisites substantially in accordance with paragraphs (a), (b) or (c) of subsection (1), or another state has declined to exercise jurisdiction on the ground that this state is the more appropriate forum to determine custody of the child; and

2. It is in his best interest that the court assume jurisdiction.

(2) Except under paragraphs (c) and (d) of subsection (1), physical presence in this state of the child, or of the child and one of the contestants, is not alone sufficient to confer jurisdiction on the court of this state to make a child custody determination.

(3) Physical presence of the child, while desirable, is not a prerequisite for jurisdiction to determine his custody.

(4) A child custody proceeding is commenced in the circuit court:

(a) By a parent, by filing a petition:

1. For dissolution or legal separation; or

2. For custody of the child in the county in which he is permanently resident or found; or

(b) By a person other than a parent, by filing a petition for custody of the child in the county in which he is permanently resident or found, but only if he is not in the physical custody of one of his parents.

(5) Notice of a child custody proceeding shall be given to the child's parent, guardian, and custodian, who may appear, be heard, and file a responsive pleading. The court, upon a showing of good cause, may permit intervention of other interested parties.

The Committee on Judiciary-Statutes reported **HB 422** with the expression of opinion that the same should pass. Ordered referred to the Committee on Rules.

The Committee on Rules reported **HB 1** with Committee Amendment attached thereto, **HB 226** with Committee Substitute attached thereto, **HB 251, HB 285, HB 325, HB 346, HB 362, HB 370, HB 407, HB 431** with Committee Substitute attached thereto, **HB 438** with Committee Substitute attached thereto, HB 466 with Committee Amendment attached thereto, **HB 479,** and **HB 496** have been posted for passage in Orders of the Day, February 26, 1976.

The Committee on Rules reported **HB 258,** with Committee Amendment attached thereto, has been recommitted to the Committee on Judiciary-Statutes.

The Committee on Rules reported **HB 290** has been recommitted to the Committee on State Government.

Posting of Bills and Resolutions for Consideration

The Clerk reported the following Bills and Resolutions have been posted for Committee consideration:

State Government: **HB 30.**

The Clerk reported the following Bills and Resolutions have been withdrawn from Committee consideration:

Highways and Traffic Safety: **HB 157.**

Report on Enrolled Bills

The Committee on Enrollment reported **SB 102** had been examined and found correctly enrolled. **SB 102** read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate.

Calendar

HB 521, SB 60, HB 61 with Committee Substitute attached thereto, **HB 299** with Committee Amendment attached thereto, **HB 387, HB 527, HB 539, SB 85, HB 68** with Committee Amendment attached thereto, **HB 248** with Committee Amendment attached thereto, **HB 347, HR 24, HB 498, HB 468** with Committee Amendment attached thereto, **HB 476, HB 361, HB 406, HB 456, HB 457, HB 499, SB 117,** and **SB 150** taken from the Calendar and read at length for the second time. Representative B. Richardson moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Motions, Petitions and Communications

Representative Morgan moved that the rules be suspended for the purpose of making an announcement. Agreed.

Representative Morgan announced a special meeting of the Committee on State Government, 12 noon, Room 305.

The following members filed Floor Amendments to Bills: Representative Imes, Floor Amendment No. 1 to **SB 91**; Representative Gray, Floor Amendment No. 1 to **HB 366**; Representative Blume, Floor Amendment No. 1 to **HB 142**.

Representative Dietz moved that the rules be suspended for the purpose of acting on a Legislative Citation. Agreed.

Representative Dietz moved the adoption of the following Legislative Citation No. 31:

The House of Representatives of the Commonwealth of Kentucky hereby congratulates the Ludlow High School football team as the Class A High School Champions for the state of Kentucky and commends the members of the team and the coaching staff for their record of excellence in football competition. (Sponsored by Representative Dietz)

Agreed.

Representative Little moved that the rules be suspended for the purpose of acting on a Resolution. Agreed.

Representative Little moved the adoption of the following **HR 59**:

HR 59, A RESOLUTION directing the Legislative Research Commission to study the system of ad valorem taxation of minerals.
WHEREAS, technical and administrative difficulties exist in the ad valorem taxation of all minerals; and
WHEREAS, a part of the state's mineral wealth is owned by absentee landlords; and
WHEREAS, the owner of mineral rights is indeterminable in some cases; and
WHEREAS, the state's mineral wealth is a depletable resource;
NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Legislative Research Commission study the system of ad valorem taxation of minerals in Kentucky and report its findings and recommendations to the 1978 General Assembly before October 1, 1977.

Section 2. That state agencies are requested to assist the Legislative Research Commission in the conduct of this study.

Section 3. Staff services to be utilized in completing this study are estimated to cost $20,000. These staff services shall be provided from the regular Commission budget and are subject to the limitations and other research responsibilities of the Commission.

HR 59 was adopted by voice vote.

Representative Deskins filed Floor Amendment No. 1 to **HB 609.**

Representative DeMarcus moved that the rules be suspended for the purpose of announcing a change in vote. Agreed.

Representative DeMarcus requested that his vote be changed from "nay" to "yea" on **HB 70.**

Representative Hardwick moved the adoption of the following Legislative Citation No. 30:

The House of Representatives of the Commonwealth of Kentucky hereby honors the Kiwanas Club of Clinton County. This body commends the Kiwanas Club for their sponsorship and promotion of various community and sports activities and congratulates them for their continuous support of several charities. This body recognizes the Kiwanas Club as a vital integral part of the Commonwealth and encourages them in all future endeavors. (Sponsored by Representative Hardwick)

Agreed.

Representative Givhan moved that **HB 497** and **HB 245** be reassigned to the Committee on State Government. Agreed.

Representative Givhan moved that a call of the roll be taken to show co-sponsors of **HB 630.**

The following members votes to co-sponsor **HB 630:** W. Allen, Givhan, Holbrook, Jones, Lindsay, Mason, Maynard.

Representative Ackerson requested that he be recorded as voting "yea" on **HB 121, HB 128, HB 218, HB 71** and **HB 70.**

Representative DeFalaise requested that he be recorded as voting "yea" on **HB 151.**

Representative Beshear moved that the rules be suspended for the purpose of considering and voting on a motion to change the House rules.

On the roll call the vote was yeas 19-Arnold, Beshear, Blythe, Carpenter, Clarke, Dawahare, Holbrook, Hopkins, Hughes, King, Kleier, LeMaster, Lindsay, McBride, Nett, Robinson, Tobin, Wible, Wooden. Nays 44-B. Adams, A. S. Adams, J. Allen, Bennett, Benson, Blandford, Burnette, Clapp, Cooper, Craddock, Crupper, Cyrus, Denham, Deskins, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Foster, Givhan, Gray, Hancock, Head, Isler, Kenton, Mann, Mason, Maynard, McBee, Morgan, Morris, Muncy, Priddy, Richards, B. Richardson, P. Richardson, Romines, Sale, Siler, Vincent, White, Wright, Yates.

The motion that the rules be suspended was rejected.

Orders of the Day

HB 73, with Committee Substitute attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Denham moved the adoption of the Committee Substitute for **HB 73.** Agreed.

Representative Denham moved that **HB 73,** by way of Committee Substitute, be passed.

On the roll call the vote was yeas 52-A. S. Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blume, Blythe, Boatwright, Brown, Burnette, Carpenter, Clarke, Cooper, Craddock, Cyrus, Dawahare, Denham, Donnermeyer, Dunn, Fitzgerald, Floyd, Freeman, Gray, Hancock, Hardwick, Head, Holbrook, Hopkins, Hurst, Kenton, LeMaster, Mann, McBride, Morgan, Overstreet, Pearl, Richards, P. Richardson, Sale, Stephens, Stewart, Tobin, J. Turner, Vincent, Wells, White, Wooden. Nays 28-Ackerson, Blandford, Bruce, Crupper, DeFalaise, DeMarcus, Deskins, Doss, Foster, Guenthner, Holloway, Hughes, Isler, Jones, Lindsay, Little, Mason, Maynard, McBee, McGill, Morris, O'Brien, Priddy, Robinson, Romines, Wible, Wright, Yates.

HB 73, by way of Committee Substitute, was passed and the title agreed to.

Representative Denham moved that the vote by which **HB 73,** by way of Committee Substitute, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative B. Richardson moved that consideration of **HB 377** be deferred and that it retain its position in Orders of the Day. Agreed.

HB 412 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Givhan moved that **HB 412** be passed.

On the roll call the vote was yeas 75-Ackerson, B. Adams, A. S. Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Blandford, Blume, Boatwright, Brinkley, Brown, Carpenter, Cooper, Craddock, Cyrus, Dawahare, DeFalaise, DeMarcus, Denham, Deskins, Dietz, Donnermeyer, Doss, Dunn, Floyd, Foster, Givhan, Gray, Guenthner, Hancock, Hardwick, Holbrook, Holloway, Hopkins, Hughes, Hurst, Isler, Jones, Kidd, King, Kleier, Lindsay, Little, Mason, May, Maynard, McBride, McGill, Morgan, Morris, Muncy, Nett, O'Brien, Pearl, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Robinson, Romines, Sale, Schmidt, Siler, Stephens, Stewart, Tobin, Vincent, Wible, Wooden, Wright, Yates. Nays 15-Beshear, Bevins, Blythe, Bruce, Burnette, Clarke, Crupper, Fitzgerald, Head, Kenton, LeMaster, Mann, McBee, Overstreet, White.

HB 412 was passed and the title agreed to.

Representative Givhan moved that the vote by which **HB 412** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Report on Enrolled Bills

The Committee on Enrollment reported **HB 88, HB 136,** and **HB 339** had been examined and found correctly enrolled. **HB 88, HB 136,** and **HB 339** read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate.

HB 88, HB 136, and **HB 339** delivered to the Senate, signed by President. Ordered delivered to the Governor.

Orders of the Day (continued)

HB 430 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

On the roll call the vote was yeas 83-Ackerson, B. Adams, A. S. Adams, J. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blandford, Blume, Blythe, Boatwright, Brinkley, Brown, Bruce, Burnette, Carpenter, Clarke, Cooper, Craddock, Crupper, Cyrus, Dawahare, DeFalaise, DeMarcus, Denham, Deskins, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Foster, Givhan, Gray, Guenthner, Hancock, Hardwick, Head, Holbrook, Holloway, Hopkins, Hurst, Isler, Jones, Kenton, Kidd, King, LeMaster, Lindsay, Little, Mann, Mason, McBee, McBride, McGill, Morgan, Morris, Muncy, O'Brien, Pearl, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Sale, Schmidt, Siler, Stephens, Stewart, Tobin, Thomas, Vincent, Wells, White, Wible, Wooden, Wright, Yates. Nays 5-Hughes, Nett, Overstreet, Robinson, Romines.

HB 430 was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **HB 430** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 446 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative McBride moved that **HB 446** be passed.

On the roll call the vote was yeas 85-Ackerson, B. Adams, J. Allen, Arnold, Bendl, Bennett, Beshear, Bevins, Blair, Blandford, Blythe, Boatwright, Brinkley, Brown, Bruce, Burnette, Carpenter, Craddock, Crupper, Cyrus, Dawahare, DeMarcus, Denham, Deskins, Donnermeyer, Doss, Dunn, Fitzgerald, Floyd, Foster, Freeman, Gay, Givhan, Gray, Guenthner, Hancock, Hardwick, Head, Holbrook, Holloway, Hopkins, Hughes, Isler, Jones, Kenton, Kidd, King, Kleier, LeMaster, Lindsay, Little, Mann, Mason, May, Maynard, McBee, McBride, McGill, Morgan, Morris, Muncy, Nett, O'Brien, Pearl, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Robinson, Romines, Sale, Siler, Stephens, Stewart, Tobin, Thomas, J. Turner, Vincent, Wells, White, Wible, Wooden, Wright, Yates. Nays 5-W. Allen, Benson, Clarke, Cooper, DeFalaise.

HB 446 was passed and the title agreed to.

Representative McBride moved that the vote by which **HB 446** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 451, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Arnold moved the adoption of the Committee Amendment to **HB 451.** Agreed.

Representative Arnold moved that **HB 451,** as amended, be passed.

On the roll call the vote was yeas 84-Ackerson, B. Adams, A. S. Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blandford, Blume, Boatwright, Brinkley, Brown, Bruce, Burnette, Carpenter, Cooper, Craddock, Crupper, Cyrus, DeFalaise, DeMarcus, Denham, Deskins, Donnermeyer, Doss, Dunn, Fitzgerald, Floyd, Foster, Givhan, Gray, Guenthner, Hancock, Head, Holbrook, Holloway, Hopkins, Hughes, Isler, Jones, Kenton, Kidd, King, Kleier, LeMaster, Lindsay, Little, Mann, Mason, May, Maynard, McGill, Morgan, Morris, Muncy, Nett, O'Brien, Overstreet, Pearl, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Robinson, Romines, Sale, Schmidt, Stephens, Stewart, Tobin, Thomas, J. Turner, Vincent, Wells, White, Wible, Wright, Yates. Nays 3-Clarke, McBee, Siler.

HB 451, as amended, was passed and the title agreed to.

Representative Arnold moved that the vote by which **HB 451,** as amended, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HR 40 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Bendl moved that **HR 40** be adopted.

HR 40 was adopted by voice vote.

SB 21 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Holbrook moved that **SB 21** be passed.

On the roll call the vote was yeas 71-Ackerson, B. Adams, J. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blandford, Blume, Boatwright, Brinkley, Brown, Burnette, Carpenter, Clarke, Craddock, Cyrus, DeFalaise, Denham, Deskins, Dietz, Donnermeyer, Dunn, Floyd, Foster, Givhan, Gray, Guenthner, Hancock, Head, Holbrook, Holloway, Hopkins, Hughes, Isler, Kenton, Kidd, King, Kleier, LeMaster, Little, Mason, May, Maynard, McGill, Morgan, Morris, Muncy, Nett, O'Brien, Pearl, Priddy, Richards, B. Richardson, P. Richardson, Romines, Sale, Schmidt, Siler, Stephens, Tobin, Thomas, J. Turner, Vincent, White, Wible, Wooden, Wright, Yates. Nays 10-A. S. Adams, W. Allen, Bruce, Doss, Fitzgerald, Lindsay, Mann, McBee, Overstreet, Robinson.

SB 21 was passed and the title agreed to.

Representative Holbrook moved that the vote by which **SB 21** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative B. Richardson moved that consideration of **SB 33** be deferred and that it retain its position in Orders of the Day. Agreed.

HB 102 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Bennett moved that **HB 102** be passed.

On the roll call the vote was yeas 46-B. Adams, J. Allen, Bendl, Bennett, Benson, Beshear, Blandford, Boatwright, Brinkley, Bruce, Clarke, Craddock, Cyrus, Deskins, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Foster, Givhan, Gray, Head, Holloway, Imes, Isler, Kenton, Kidd, Lindsay, Little, Mann, McBee, McBride, Morgan, Muncy, O'Brien, Pearl, Priddy, B. Richardson, Romines, Tobin, Wells, Wible, Wooden, Wright, Yates. Nays 33-Ackerson, W. Allen, Bevins, Blair, Blythe, Carpenter, Cooper, Crupper, Dawahare, DeMarcus, Denham, Floyd, Freeman, Gay, Guenthner, Hancock, Hardwick, Holbrook, Hopkins, Hughes, LeMaster, Mason, May, Morris, Overstreet, Rattliff, Robinson, Sale, Siler, Stephens, J. Turner, Vincent, White.

HB 102 was passed.

Representative Bennett moved the adoption of the following Title Amendment to **HB 102:**

Amend printed copy of House Bill 102 on page 1 by deleting the title line after "An Act relating to" and inserting in lieu thereof *provisions concerning license to operate mine.*

The Title Amendment to **HB 102** was adopted.

Representative Bennett moved that the vote by which **HB 102** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 303, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Bennett moved the adoption of the Committee Amendment to **HB 303.** Agreed.

Representative Bennett moved that **HB 303,** as amended, be passed.

Representative Jones moved that **HB 303,** as amended, be laid on the table.

On the roll call the vote was yeas 19-A. S. Adams, Blair, Blythe, Brinkley, Burnette, Carpenter, Crupper, Freeman, Guenthner, Holbrook, Holloway, Jones, King, May, McBee, O'Brien, Robinson, Stephens, Wible. Nays 43-Ackerson, J. Allen, W. Allen, Bendl, Bennett, Benson, Bevins, Blandford, Blume, Clarke, Craddock, Cyrus, Deskins, Dunn, Fitzgerald, Foster, Gay, Givhan, Gray, Hancock, Hardwick, Hopkins, Hughes, Hurst, Imes, Isler, Kidd, LeMaster, Little, Mann, McBride, McGill, Nett, Overstreet, Pearl, Priddy, B. Richardson, Romines, Tobin, Thomas, J. Turner, Vincent, Yates.

The motion that **HB 303,** as amended, be laid on the table was rejected.

On the roll call the vote was yeas 43-Ackerson, W. Allen, Arnold, Bendl, Bennett, Benson, Blandford, Bruce, Cyrus, Deskins, Donnermeyer, Dunn, Fitzgerald, Floyd, Foster, Givhan, Gray, Guenthner, Hancock, Hardwick, Holloway, Hughes, Isler, Kidd, Kleier, LeMaster, Little, Mann, Maynard, McGill, Morris, Nett, O'Brien, Pearl, Priddy, B. Richardson, Romines, Sale, Tobin, J. Turner, Vincent, Wright, Yates. Nays 39-B. Adams, A. S. Adams, J. Allen, Beshear, Bevins, Blair, Blythe, Boatwright, Brinkley, Burnette, Carpenter, Clarke, Cooper, Crupper, Dawahare, DeFalaise, Dietz, Freeman, Gay, Head, Holbrook, Hopkins, Hurst, Imes, Jones, Kenton, King, May, McBee, McBride, Muncy, Overstreet, Richards, Robinson, Siler, Stephens, Wells, White, Wible.

HB 303, as amended, was passed and the title agreed to.

Representative Bennett moved that the vote by which **HB 303,** as amended, was passed be reconsidered and said motion be postponed indefinitely.

On the roll call the vote was yeas 40-Ackerson, W. Allen, Arnold, Bendl, Bennett, Benson, Bevins, Blandford, Craddock, Cyrus, DeMarcus, Deskins, Donnermeyer, Dunn, Fitzgerald, Floyd, Givhan, Gray, Hancock, Hardwick, Holloway, Hughes, Isler, Kenton, Kleier, LeMaster, Lindsay, Little, Maynard, McGill, Morris, Nett, O'Brien, Pearl, Priddy, Romines, J. Turner, Vincent, Wright, Yates. Nays 26-B. Adams, A. S. Adams, J. Allen, Blythe, Burnette, Carpenter, Cooper, Crupper, Dawahare, DeFalaise, Freeman, Head, Holbrook, Hopkins, Jones, Mann, May, McBee, Richards, Robinson, Sale, Schmidt, Stephens, Thomas, Wells, Wible.

The motion that the vote by which **HB 303,** as amended, was passed be reconsidered and said motion be postponed indefinitely was passed.

HB 134 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Yates moved that **HB 134** be passed.

On the roll call the vote was yeas 68-Ackerson, J. Allen, Arnold, Bennett, Bevins, Blair, Blandford, Blume, Blythe, Boatwright, Brinkley, Brown, Burnette, Carpenter, Cooper, Craddock, Crupper, Cyrus, Dawahare, DeFalaise, Deskins, Dietz, Donnermeyer, Dunn, Fitzgerald, Floyd, Foster, Givhan, Gray, Hancock, Hardwick, Holbrook, Holloway, Hopkins, Hughes, Hurst, Imes, Isler, Kenton, LeMaster, Lindsay, Little, Mann, Mason, May, McBee, McBride, Morgan, Morris, Muncy, O'Brien, Overstreet, Pearl, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Robinson, Romines, Sale, Siler, Thomas, J. Turner, White, Wible, Wright, Yates. Nays 17-B. Adams, W. Allen, Bendl, Benson, Beshear, Bruce, Clarke, DeMarcus, Denham, Gay, Kidd, Maynard, McGill, Nett, Stephens, Tobin, Vincent.

HB 134 was passed and the title agreed to.

Representative Yates moved that the vote by which **HB 134** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 353 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Thomas moved that **HB 353** be passed.

On the roll call the vote was yeas 78-B. Adams, A. S. Adams, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blandford, Blume, Blythe, Boatwright, Brown, Bruce, Burnette, Carpenter, Clarke, Craddock, Crupper, Cyrus, Dawahare, DeFalaise, Denham, Deskins, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Foster, Freeman, Gay, Givhan, Gray, Hancock, Hardwick, Head, Holbrook, Holloway, Hopkins, Hughes, Imes, Isler, Kleier, LeMaster, Lindsay, Little, Mann, Mason, May, Maynard, McBee, McBride, Morgan, Morris, Muncy, Nett, O'Brien, Overstreet, Pearl, Rattliff, Richards, B. Richardson, P. Richardson, Robinson, Romines, Sale, Schmidt, Stephens, Tobin, Thomas, J. Turner, Vincent, White, Wible, Yates. Nays 2-DeMarcus, Jones.

HB 353 was passed and the title agreed to.

Representative Thomas moved that the vote by which **HB 353** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 355 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Fitzgerald moved that **HB 355** be passed.

On the roll call the vote was yeas 92-Ackerson, B. Adams, A. S. Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blandford, Blume, Blythe, Boatwright, Brinkley, Brown, Bruce, Burnette, Carpenter, Clarke, Cooper, Craddock, Crupper, Cyrus, Dawahare, DeFalaise, DeMarcus, Denham, Deskins, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Floyd, Foster, Gay, Givhan, Gray, Guenthner, Hancock, Hardwick, Head, Holbrook, Holloway, Hopkins, Hughes, Hurst, Imes, Isler, Jones, Kenton, Kidd, King, Kleier, LeMaster, Lindsay, Little, Mann, Mason, May, Maynard, McBee, McBride, McGill, Morris, Muncy, Nett, O'Brien, Overstreet, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Robinson, Romines, Sale, Schmidt, Siler, Stephens, Tobin, Thomas, J. Turner, Vincent, Wells, White, Wible, Wright, Yates. Nays 0.

HB 355 was passed and the title agreed to.

Representative Fitzgerald moved that the vote by which **HB 355** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 369 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative B. Adams moved that **HB 369** be passed.

On the roll call the vote was yeas 87-Ackerson, B. Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blandford, Blume, Blythe, Boatwright, Brinkley, Brown, Bruce, Burnette, Carpenter, Clarke, Cooper, Crupper, Cyrus, Dawahare, DeFalaise, DeMarcus, Denham, Deskins, Dietz, Donnermeyer, Doss, Fitzgerald, Floyd, Foster, Freeman, Gay, Givhan, Gray, Guenthner, Hancock, Hardwick, Head, Holbrook, Holloway, Hughes, Hurst, Imes, Isler, Jones, Kenton, Kidd, King, Kleier, LeMaster, Lindsay, Little, Mason, May, McBride, McGill, Morgan, Morris, Muncy, Nett, O'Brien, Overstreet, Pearl, Rattliff, Richards, B. Richardson, P. Richardson, Robinson, Romines, Sale, Schmidt, Siler, Stephens, Tobin, Thomas, J. Turner, Vincent, Wells, White, Wible, Wright, Yates. Nays 2-A. S. Adams, Hopkins.

HB 369 was passed and the title agreed to.

Representative B. Adams moved that the vote by which **HB 369** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 469 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Boatwright moved that **HB 469** be passed.

Representative Robinson moved that the following Floor Amendment No. 1 to **HB 469** be adopted:

Amend printed copy of House Bill 469 on page 1, line 3 by inserting after the word "residents" the following: "and residents of states that have entered into reciprocal agreements with Kentucky".

Floor Amendment No. 1 to **HB 469** was defeated.

On the roll call the vote was yeas 79-Ackerson, B. Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blythe, Boatwright, Brinkley, Brown, Bruce, Burnette, Carpenter, Clarke, Cooper, Craddock, Cyrus, DeFalaise, DeMarcus, Denham, Deskins, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Floyd, Foster, Givhan, Gray, Guenthner, Hardwick, Head, Holbrook, Holloway, Hopkins, Hughes, Hurst, Imes, Isler, Jones, Kenton, Kidd, King, Kleier, LeMaster, Lindsay, Little, Mann, Mason, May, Maynard, McBride, McGill, Morgan, Morris, O'Brien, Overstreet, Pearl, Priddy, Richards, B. Richardson, Romines, Sale, Schmidt, Stephens, Tobin, J. Turner, Vincent, Wells, Wible, Wooden, Wright, Yates. Nays 9-Blandford, Crupper, Gay, Hancock, McBee, Muncy, P. Richardson, Robinson, Siler.

HB 469 was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **HB 469** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Report on Enrolled Bills

The Committee on Enrollment reported **SB 68** and **SR 17** had been examined and found correctly enrolled. **SB 68** and **SR 17** read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate.

Orders of the Day (continued)

HR 44 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Bruce moved that **HR 44** be adopted.

HR 44 was adopted by voice vote.

Representative B. Richardson moved that consideration of **HB 22** be deferred and that it retain its position in Orders of the Day. Agreed.

HB 100 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative McGill moved that **HB 100** be passed.

On the roll call the vote was yeas 76-Ackerson, J. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blandford, Blume, Brinkley, Brown, Burnette, Carpenter, Clarke, Cooper, Craddock, Crupper, Dawahare, DeFalaise, DeMarcus, Denham, Deskins, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Floyd, Givhan, Gray, Guenthner, Hancock, Hardwick, Head, Holbrook, Holloway, Hopkins, Hughes, Isler, Kenton, Kidd, King, Kleier, LeMaster, Lindsay, Little, Mann, Mason, May, McBee, McBride, McGill, Morgan, Morris, Muncy, O'Brien, Overstreet, Pearl, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Robinson, Romines, Sale, Schmidt, Siler, Tobin, Thomas, Vincent, White, Wible, Wright. Nays 3-B. Adams, Foster, Stephens.

HB 100 was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **HB 100** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative B. Richardson moved that consideration of **HB 142** be deferred and that it retain its position in Orders of the Day. Agreed.

HB 205 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Morgan moved that **HB 205** be passed.

On the roll call the vote was yeas 91-Ackerson, B. Adams, A. S. Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blandford, Blume, Blythe, Brinkley, Brown, Bruce, Burnette, Carpenter, Clarke, Cooper, Craddock, Crupper, Cyrus, Dawahare, DeFalaise, DeMarcus, Denham, Deskins, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Floyd, Foster, Freeman, Gay, Givhan, Gray, Guenthner, Hancock, Hardwick, Head, Holbrook, Holloway, Hopkins, Hughes, Hurst, Isler, Jones, Kenton, Kidd, King, Kleier, LeMaster, Lindsay, Little, Mann, Mason, May, Maynard, McBee, McBride, McGill, Morgan, Morris, Muncy, O'Brien, Pearl, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Robinson, Romines, Sale, Schmidt, Siler, Stephens, Tobin, Thomas, Vincent, Wells, White, Wible, Wooden, Wright, Yates. Nays 1-Overstreet.

HB 205 was passed and the title agreed to.

Representative Morgan moved that consideration of **HB 205** be deferred and that it retain its position in Orders of the Day. Agreed.

HB 313 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Givhan moved that **HB 313** be passed.

Representative DeMarcus moved that **HB 313** be laid on the table.

On the roll call the vote was yeas 47-Ackerson, B. Adams, A. S. Adams, W. Allen, Bevins, Blair, Blandford, Blythe, Boatwright, Brinkley, Bruce, Burnette, Carpenter, Cooper, Crupper, DeFalaise, DeMarcus, Denham, Floyd, Foster, Freeman, Gay, Guenthner, Hancock, Hardwick, Head, Holbrook, Holloway, Hopkins, Hughes, Jones, Lindsay, May, McBee, McBride, Morris, Overstreet, Rattliff, Richards, P. Richardson, Robinson, Schmidt, Stephens, Thomas, J. Turner, Wells, White. Nays 27-J. Allen, Bennett, Benson, Beshear, Blume, Cyrus, Deskins, Dietz, Doss, Dunn, Fitzgerald, Givhan, Gray, Isler, Kenton, King, LeMaster, Little, Mason, Maynard, O'Brien, Priddy, B. Richardson, Sale, Wible, Wright, Yates.

HB 313 was tabled.

HB 423, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lindsay moved the adoption of the Committee Amendment to **HB 423.** Agreed.

Representative Beshear moved that **HB 423,** as amended, be passed.

On the roll call the vote was yeas 85-B. Adams, A. S. Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blandford, Blume, Blythe, Boatwright, Brinkley, Brown, Bruce, Burnette, Carpenter, Clarke, Cooper, Craddock, Crupper, Cyrus, Dawahare, DeMarcus, Denham, Deskins, Dietz, Doss, Dunn, Fitzgerald, Freeman, Gay, Givhan, Gray, Guenthner, Hancock, Hardwick, Holbrook, Holloway, Hopkins, Hughes, Hurst, Imes, Isler, Kenton, Kidd, King, Kleier, LeMaster, Lindsay, Little, May, McBride, McGill, Morgan, Morris, Muncy, Nett, O'Brien, Overstreet, Pearl, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Robinson, Romines, Sale, Schmidt, Siler, Stephens, Tobin, Thomas, J. Turner, Vincent, Wells, White, Wible, Wooden, Wright, Yates. Nays 5-DeFalaise, Donnermeyer, Mann, Mason, McBee.

HB 423, as amended, was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **HB 423** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 141, with Senate Amendment attached thereto, taken from Orders of the Day. Representative B. Richardson moved that it be placed upon its passage. Agreed.

Representative Schmidt moved that the House concur in the following Senate Amendment to **HB 141:**

Amend printed copy of House Bill 141 as follows:

On page 1, amend title, by deleting from the title the following: "and making an appropriation for notices concerning such nominations".

The Senate Amendment to **HB 141** was adopted.

Representative B. Richardson moved that **HB 141,** as amended, be passed.

On the roll call the vote was yeas 76-Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blume, Blythe, Boatwright, Brinkley, Bruce, Burnette, Carpenter, Clarke, Cooper, Cyrus, DeFalaise, DeMarcus, Denham, Deskins, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Floyd, Foster, Givhan, Gray, Guenthner, Hancock, Hardwick, Holbrook, Holloway, Hopkins, Hughes, Hurst, Imes, Isler, Kenton, Kidd, King, Kleier, LeMaster, Lindsay, Little, Mann, May, Maynard, McBride, McGill, Morgan, Morris, Muncy, Nett, O'Brien, Overstreet, Pearl, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Romines, Sale, Schmidt, Siler, Stephens, Tobin, Thomas, J. Turner, White, Wible, Wooden, Wright, Yates. Nays 2-W. Allen, Mason.

HB 141, as amended, was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **HB 141** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative B. Richardson moved that consideration of **HB 67, HB 212,** and **HB 211** with Senate Amendment attached thereto, be deferred and that they retain their position in Orders of the Day. Agreed.

Representative B. Richardson moved that the rules be suspended for the purpose of Posting Bills and Resolutions for Consideration. Agreed.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Appropriations and Revenue: **HB 172, HB 173, HB 222, HB 158, HB 277, HB 235, HB 259, HB 244, HB 257, HB 302, HB 198, HB 307, HB 400, HB 401, HB 405, HB 182, HB 380, HB 381, HB 426, HB 82, HB 415, HB 447, HB 314, HB 455, HB 340, HB 394, HB 502, HB 465, HB 148, HB 517, HB 549, HB 563, HB 569, HB 613, HB 558, HB 170, HB 520, HB 583, HB 390, SB 99, SB 28, SB 119, SB 141, SB 167, HB 558, HB 610.**

Cities: **HB 631.**

Judiciary-Statutes: **HB 580.**

Announcements

The following members filed Floor Amendments to Bills:

Representative Schmidt, Floor Amendment No. 1 to **HB 226;**

Representative McBee, Floor Amendment No. 1 to **HB 399;**

Representative Blume, Floor Amendment No. 2 to **HB 142;**

Representative Lindsay, Floor Amendment No. 2 to **HB 22.**

The Speaker vacated the Chair.

Representative Fitzgerald presiding.

The following members filed requests with the Clerk to have their names added as co-sponsors of Bills and Resolutions: Representative Blythe, **HB 81**, Representative Kleier, **HB 662;** Representative Hancock, **HB 625;** Representative Donnermeyer, **HB 141;** Representative Overstreet, **HB 468;** Representative Burnette, **HB 517;** Representative Ackerson, **HB 333;** Representative Arnold, **HB 579;** Representative Muncy, **HB 507, HB 506, HB 504, HB 616;** Representative Little, **HB 616.**

Representative Bevins moved that the rules be suspended for the purpose of members making requests in regard to voting. Agreed.

Representative Bevins requested that he be recorded as voting "yea" on **HB 83.**

Representative Thomas requested that he be recorded as voting "nay" on **HB 396.**

Representative Blythe requested that he be recorded as voting "yea" on **HB 412** and "yea" on **HB 100.**

Representative Bennett requested that he be recorded as voting "yea" on **HB 396.**

Representative Jones requested that he be recorded as voting "yea" on **HB 353.**

Representative Maynard moved that the rules be suspended for the purpose of making a motion in regard to withdrawing a Bill. Agreed.

Representative Maynard moved that **HB 630** be withdrawn. Agreed.

Adjournment

Representative B. Richardson moved that the House adjourn until 2:00 p.m., Thursday, February 26, 1976.

On the roll call the vote was yeas 41-B. Adams, Arnold, Bennett, Beshear, Blume, Boatwright, Carpenter, Craddock, Crupper, Cyrus, DeFalaise, Denham, Donnermeyer, Doss, Dunn, Foster, Givhan, Head, Hughes, Jones, Kenton, Kidd, King, LeMaster, Lindsay, Mason, May, Maynard, McBee, McBride, McGill, Pearl, Richards, B. Richardson, P. Richardson, Sale, Schmidt, Tobin, Vincent, Wells, White. Nays 22-W. Allen, Bendl, Blythe, Brinkley, Burnette, Deskins, Freeman, Gay, Gray, Hancock, Hardwick, Hurst, Imes, Isler, Kleier, Mann, Morris, Nett, Overstreet, Priddy, Robinson, Thomas.

The motion to adjourn was adopted.

THURSDAY, FEBRUARY 26, 1976

FORTIETH LEGISLATIVE DAY

The House was called to order by Speaker Kenton.

Prayer by Father Carl Schaeffer, Church of the Good Shepherd, Frankfort.

The roll was called. All present except Representatives Gay, Givhan, and Siemens.

Representative Isler moved that absent members be granted leave of absence in accordance with the prevailing rules of the House. Agreed.

Representative Hughes moved that the reading of the Journal of February 25, 1976, be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HCR 70, by Representatives Isler and Dietz: A CONCURRENT RESOLUTION requesting the Congress of the United States to return to the Commonwealth of Kentucky four dollars of each ten and one half dollars Federal excise tax collected on distilled spirits produced in Kentucky.

HJR 71, by Representatives Stephens and Hopkins: A JOINT RESOLUTION directing the state department of education to investigate and develop methods and a plan of implementation for correcting the problem of low achievement averages in basic skills.

HR 72, by Representatives Romines and Priddy: A RESOLUTION requesting a more rigid enforcement of school bus equipment inspections by the Pupil Transportation Division of the Jefferson County Board of Education.

HB 701, by Representatives Overstreet, Fitzgerald, and Foster: AN ACT relating to minerals.

HB 702, by Representative Imes: AN ACT relating to the motor vehicle usage tax.

HB 703, by Representative Imes: AN ACT relating to the motor vehicle usage tax.

HB 704, by Representative Dawahare: AN ACT relating to financing of industrial development.

HB 705, by Representative Bevins: AN ACT relating to the length of the school day.

HB 706, by Representatives Blume, Donnermeyer, Dunn, J. R. Turner: AN ACT relating to electrical inspectors and electricians.

HB 707, by Representative Blume: AN ACT relating to the Legislative Research Commission.

HB 708, by Representative King: AN ACT relating to the treatment and rehabilitation of alcoholics and persons intoxicated or incapacitated.

HB 709, by Representative Stephens: AN ACT relating to a board and department of health in certain urban counties.

HB 710, by Representatives Guenthener, Donnermeyer, DeFalaise, Mann, Priddy, and Schmidt: AN ACT relating to financial assistance for students attending private elementary and secondary schools.

HB 711, by Representatives Overstreet and Hughes: AN ACT relating to vital statistics.

HB 712, by Representatives B. Richardson and Beshear: AN ACT relating to health care malpractice claims.

HB 713, by Representative B. Richardson: AN ACT relating to revenue and taxation.

HB 714, by Representative DeFalaise: AN ACT relating to adoption.

HB 715, by Representative DeFalaise: AN ACT relating to involuntary termination of parental rights.

HB 716, by Representatives Isler, Donnermeyer, Dietz, McBee, DeFalaise, King, Mann, and Schmidt: AN ACT relating to transportation.

HB 717, by Representatives Ackerson, Benson, and Wooden: AN ACT relating to eligibility of prisoners for parole.

HB 718, by Representatives Ackerson, Overstreet, Holloway, O'Brien, and Guenthner: AN ACT relating to the public service commission.

HB 719, by Representative Priddy: AN ACT relating to rights and duties of policemen and firemen.

HB 720, by Representatives McBee and Donnermeyer: AN ACT relating to vending machines.

HJR 73, by Representative B. Richardson: A JOINT RESOLUTION concerning consumer education and authorizing studies to determine the effectiveness of consumer education programs in Kentucky.

Senate Message

Announcing passage of **SB 169, SB 166, SR 25, HB 99, HB 233, SB 112, SB 96, SB 23.**

Reference of Bills and Resolutions

The Clerk announced the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Natural Resources: **HB 667, HB 668, HB 697, SB 155.**

Appropriations and Revenue: **HB 669, HB 671, HB 674, HB 675, HB 676,** HB 677, **HB 678, HB 684, HB 695, HB 698, HB 699.**

Business Organizations and Professions: **HB 680, SB 151.**

Cities: **HB 672, HB 687, HB 688.**

Counties and Special Districts: **HB 670.**

Education: **HB 666, HB 685.**

Elections and Constitutional Amendments: **HCR 65, SB 186.**

Health and Welfare: **HB 690, HB 691, HB 692, HB 693, SB 174.**

Highways and Traffic Safety: **HR 69.**

Judiciary-Courts: **SB 162.**

Judiciary-Statutes: **HB 681, HR 68, SB 209.**

Labor and Industry: **HB 682, HCR 67.**

Public Utilities and Transportation: **HB 679, HB 683, HB 686.**

State Government: **HB 673, HB 689, HB 694, HB 696, HB 700, HJR 66.**

Report on Enrolled Bills

The Committee on Enrollment reported **HB 141** had been examined and found correctly enrolled. **HB 141** read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate.

HB 141 delivered to the Senate, signed by President. Ordered delivered to the Governor.

Report of Committees

The Committee on State Government reported **SCR 6, SB 101** with Committee Amendment attached thereto, **SB 98, HCR 14,** and **HB 480** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SR 6, A CONCURRENT RESOLUTION memorializing the President, the Congress, and the U.S. International Trade Commission to increase the tariff on imported burley tobacco or to otherwise reduce the quantity of burley tobacco imported into the United States.

WHEREAS, imports into the United States of burley and flue-cured tobaccos for consumption have increased from about 6 million pounds in 1973 to 42 million pounds in 1975, an increase of 600 percent in two years; and

WHEREAS, burley and flue-cured tobaccos were imported into this country in 1975 at a total cost of about 67¢ per pound compared to an equivalent cost of about $1.20 per pound for dried, domestically grown burley tobacco; and

WHEREAS, the average selling price per pound of domestically grown burley tobacco in 1975 was about 7¢ less than in 1974, while the expense of growing burley increased by about five percent during that year; and

WHEREAS, the wage paid to the foreign laborer growing tobacco in competition with domestic burley is about $2.50 per day compared to about $3.00 per hour in this country; and

WHEREAS, the tariff policy of this country should not encourage foreign sweatshop labor in competition with domestic burley production; and

WHEREAS, the Federal Trade Act of 1974 provides for relief from injury caused by competition from imports; and

WHEREAS, Section 201(b)(1) of the Trade Act of 1974 provides that, upon the request of the President, or the Special Representative for Trade Negotiations, or the Committee on Finance of the U.S. Senate, or the Committee on Ways and Means of the U.S. House of Representatives, the U.S. International Trade Commission "...shall promptly make an investigation to determine whether an article is being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing an article like or directly competitive with the imported article"; and

WHEREAS, the Trade Act of 1974 provides that the International Trade Commission shall report to the President within 6 months after the request is filed and that the President shall make a determination within 60 days after receiving the Commission's report; and

WHEREAS, if the President determines to provide import relief, he may proclaim an increase in the duty on the article causing or threatening to cause serious injury to the industry, or the President may impose any quantitative restriction on the import, or the President may negotiate orderly marketing agreements with foreign countries limiting the import into this country;

NOW, THEREFORE,

Be it resolved by the Senate of the General Assembly of the Commonwealth of Kentucky, the House of Representatives concurring therein:

Section 1. That the Committee on Finance of the U.S. Senate and the Committee on Ways and Means of the U.S. House of Representatives resolve that the U.S. International Trade Commission investigate whether the importation of burley tobacco into the United States is a substantial cause of serious injury, or the threat thereof, to the domestic production of burley tobacco.

Section 2. In the event that import relief under the terms of the Trade Act of 1974 cannot be provided the domestic burley industry, that the Congress take appropriate action to intercede in the General Agreement on Tariffs and Trade to either increase the tariff on imported burley tobacco or to otherwise reduce the quantity of burley tobacco imported into this country.

Section 3. That copies of this resolution be sent to the President, to Kentucky's congressional delegation, to the chairman of the Committee on Ways and Means of the U.S. House of Representatives, to the chairman of the Committee on Finance of the U.S. Senate, to the Special Representative for Trade Negotiations, to the chairman of the U.S. International Trade Commission, and to the Secretary of Agriculture.

SB 101, AN ACT relating to central purchasing.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 45.365 is amended to read as follows;

(1) The executive department for finance and administration shall include in *all state agency price contracts* [any contract] for the purchase of materials or supplies a provision that, as approved by the commissioner of the executive department for finance and administration, any political subdivision, including cities of all classes, counties, school districts or special districts, may participate in *such contracts* [the contract] to the same extent as the commonwealth. Any political subdivision may purchase materials and supplies pursuant to a contract for such supplies and materials entered into by the executive department for finance and administration for the commonwealth, including those contracts negotiated by the executive department for finance and administration with vendors who maintain a general service administration price agreement as provided in subsection (2) of KRS 45.360. Where other provisions of the Kentucky Revised Statutes require that political subdivisions of the commonwealth purchase by competitive bidding, such political subdivisions must comply with the applicable statute before participating in the contract, unless the state contract has been let by competitive bidding, or the contract was negotiated as provided in subsection (2) of KRS 45.360.

(2) The executive department for finance and administration shall inform the appropriate purchasing agent of each political subdivision, interested in participating under this section, of *all state agency* contracts in effect between the commonwealth and vendors [setting forth the contract items and price per unit. Such information shall be conveyed by duplicate written copies of the contracts themselves].

(3) The commissioner of the executive department for finance and administration shall promulgate the rules and regulations necessary for the implementation of this section and necessary to provide that the commonwealth be reimbursed for any additional expenses incurred by the commonwealth in allowing political subdivisions to participate in contracts with vendors.

(4) The executive department for finance and administration shall comply with all provisions relating to the methods of purchasing in the Kentucky Revised Statutes. This section is not intended to repeal or otherwise affect any provision of the Kentucky Revised Statutes regarding purchasing methods of the executive department for finance and administration.

The Committee Amendment to **SB 101** is as follows:

Amend printed copy of Senate Bill 101, page 2, line 6 by adding the following: "*No political subdivision may make a contract for the purchase of materials or supplies that requires the political subdivision to pay a higher price for such items than the price of the same item under a state contract in which the political subdivision may participate.*"

and on page 3, after line 2, by adding the following:

"SECTION 2. A NEW SECTION OF KRS CHAPTER 45 IS CREATED TO READ AS FOLLOWS:

If any local public official willfully and knowingly makes a contract in violation of subsection (1) of Section 1 of this Act he shall be guilty of a class B misdemeanor."

SB 98, AN ACT relating to the Kentucky Heritage Commission.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 171.381 is amended to read as follows:

(1) There is established the Kentucky heritage commission as a separate administrative body of state government within the meaning of KRS chapter 12.

(2) The commission shall be dedicated to the preservation and protection of all meaningful vestiges of Kentucky's heritage for succeeding generations, and in pursuit of this dedication it shall engage in and concern itself with worthy projects and other matters related to the conservation and continuing recognition of buildings, structures, sites, and other landmarks associated with the archeological, cultural, economic, military, natural, political, or social aspect of Kentucky's history.

(3) The membership of the commission shall consist of not more than thirty (30) members each of whom shall have manifested an interest in the history of the commonwealth and the preservation of its heritage. They shall be appointed by the governor and shall serve at the governor's will during his incumbency and until each member's successor is appointed. From the commission's membership the governor shall appoint a chairman and a vice-chairman of the commission. The commission may elect by majority vote, other officers deemed necessary by the commission. It shall meet at the call of the chairman, but at least twice during each calendar year. A majority of the members shall constitute a quorum. From the commission's membership the governor shall name three (3) members who, along with the commission's chairman and vice-chairman shall serve as the executive committee. The executive committee shall be responsible for the execution of duties and functions assigned to the commission.

(4) The duties and functions of the commission shall be to:

(a) Review and recommend appropriate projects and programs to insure the proper recognition, preservation, and protection of matters related to Kentucky's heritage, particularly those in the nature of or associated with real property.

(b) Advise, consult, and cooperate generally with state, local, and national officials and agencies to accomplish the purposes to which the commission is dedicated, and specifically with the Kentucky department of parks and historical society in matters of common concern.

(c) Encourage, promote, and coordinate historic preservation programs being conducted in Kentucky by other agencies or groups, public and private.

(d) Prepare and maintain an inventory or survey of Kentucky's resource of historic buildings, sites, structures, and other landmarks, and list in an official roll those such landmarks which possess statewide or national significance.

(5) The commission may:

(a) Accept grants or other funds or property from any available source, public or private.

(b) Employ, with the approval of the governor, such staff as may be necessary. Any member of such staff shall be entitled to compensation under KRS chapter 18, and may be reimbursed for necessary and actual expenses in accordance with the provisions of KRS chapters 44 and 45.

(c) Enter into such contractual relationships as may be necessary.

(d) Acquire real property, by gift or devise or by purchase pursuant to the provisions of KRS 45.360, and hold the same in the name of the commonwealth for the use and benefit of the commission.

(e) Initiate its own projects of an appropriate nature, and undertake or otherwise engage in joint projects with other agencies or groups, public or private.

(f) Adopt such rules and regulations as may be necessary and incidental to the performance of the commission's duties and functions.

(6) Members of the commission shall serve without compensation, but may be reimbursed in accordance with the provisions of KRS chapters 44 and 45 for actual and reasonable expenses incurred in the furtherance of the commission's activities.

[(7) The headquarters of the commission shall be located in the building commonly known as the Vest-Lindsey House which is situated in the "Corner of Celebrities" area of the capital city of the commonwealth.]

(7) [(8)] The receipt, control, and expenditure of funds shall be subject to the general provisions of the Kentucky Revised Statutes governing financial administration of all state agencies.

(8) [(9)] No provision of this section shall be construed as repealing any of the laws of the commonwealth relating to the preservation, protection, and recognition of historical matters, but shall be held and construed as ancillary and supplemental thereto.

HR 14, A CONCURRENT RESOLUTION petitioning and urging the Congress and the President of the United States to restrict the activities of federal agencies that usurp the powers of the states.

WHEREAS, the preemption of state power by federal agencies through their issuance of administrative regulations that conflict with the laws adopted by the popularly elected legislatures of the states has resulted in a loss of citizen control of government and a drastic decline in the citizenry's confidence in its governments; and

WHEREAS, federal administrative agencies, staffed by appointed officers and employes, have proven unresponsive to the diverse needs of the citizens of each of the fifty states; and

WHEREAS, the proliferation of federal regulations has resulted in an overwhelming increase in red tape and a deterioration of the characteristics of individual self-reliance, diversity and capacity for innovation on which this nation was founded and by which it has progressed;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That the Congress and the President of the United States be and they are hereby petitioned and urged to cease enacting measures and to amend or repeal existing laws that directly or indirectly authorize federal administrative agencies to usurp the powers of the states by adopting and enforcing regulations that conflict with state laws.

Section 2. That the Congress and the President of the United States are further requested to establish effective procedures for closely monitoring the activities of federal agencies to assure that said agencies do not unlawfully adopt and enforce regulations that conflict with the laws enacted by the legislatures of the fifty states.

Section 3. That the Clerk of the House of Representatives shall transmit copies of this resolution to the President of the United States Senate, the Speaker of the United States House of Representatives, the President of the United States and to each member of the Kentucky Congressional delegation.

HB 480, AN ACT relating to moving expenses of state employes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 18 IS CREATED TO READ AS FOLLOWS:

(1) As used in this Act unless the context requires otherwise:

(a) "State agency" or "agency" means any state administrative body, agency, department or division as defined by KRS 12.010;

(b) "Moving expenses" means the reasonable expenses of moving household goods and personal effects from an employe's former residence to his new residence, and shall include a per diem allowance not to exceed the cost of food, lodging and necessary incidental expenses incurred by the employe and his family for any days reasonably required to move the employe's household goods from his former residence to his new residence;

(c) "Work station" means the place where the employe spends most of his working time or, in the absence of such a place, where he must report in line of responsibility.

(2) The head of any state agency may at his discretion adopt policy and guidelines to reimburse employes of the agency for moving expenses incurred by reason of being required by the same agency to move to a new work station.

The Committee on State Government reported **HB 93** with Committee Substitute attached thereto and Committee Amendment to the Committee Substitute, with the expression of opinion that the same should pass. Ordered referred to the Committee on Rules.

The Committee Amendment to the Committee Substitute for **HB 93** is as follows:

Amend printed copy of Committee Substitute to House Bill 93 page 2, by inserting before line 19 the following:

"(1) Notwithstanding any other provision of the law, a department, instrumentality or agency of city, county or urban county government having a right of eminent domain under other statutes shall exercise such right only by requesting the governing body of the city, county or urban county to institute condemnation proceedings on its behalf. If the governing body of the city, county or urban county agrees, it shall institute such proceedings under Section 5 of this Act, and all costs involved in the condemnation shall be borne by the department, instrumentality or agency requesting the condemnation.

(2) If any department, instrumentality or agency of a city, county or urban county government operates in more than one governmental unit, it shall request the governing body of the city, county or urban county government wherein the largest part of the individual tract of the property sought to be condemned lies, to institute condemnation proceedings on its behalf.

(3) A department, instrumentality or agency of the Commonwealth of Kentucky, other than the Department of Transportation, having a right of eminent domain under other statutes shall exercise such right only by requesting the Executive Department for Finance and Administration to institute condemnation proceedings on its behalf. If the Department for Finance and Administration agrees, it shall institute such proceedings under Section 5 of this Act, and all costs involved in the condemnation shall be borne by the department, instrumentality or agency requesting the condemnation."

and on page 2, line 19 by inserting before "Prior" the following: "(4)"

and on page 3, line 9 by deleting "A" and inserting before "condemnor" the following: "Except as otherwise provided in Section 4 of this Act, a"

and on page 12, line 18 by inserting after the word "condemnation" the words "or the construction of the project"

on page 156, line 5 by deleting the word "county" and inserting in lieu thereof "circuit"

and on page 13, line 1 by deleting "five" and substituting in place thereof "eight"

and on page 13, line 12 by inserting after "land." "Property acquired for purposes of industrial development pursuant to KRS Chapter 152 is exempt from this Section."

and on page 13, line 14 by deleting "five" and substituting in lieu thereof "eight"

The Committee on State Government reported **HB 260,** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Ordered referred to the Committee on Rules.

The Committee on Agriculture and Natural Resources reported **HB 160,** with Committee Substitute attached thereto, **HB 338** with Committee Amendments attached thereto, **HB 541,** and **HB 546** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 160, AN ACT relating to farming.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. This Act shall be known as the Family Farm Act of 1976.

Section 2. A new section of KRS Chapter 247 is created to read as follows:
As used in this Act, unless the context otherwise requires, the term:
(1) "Agricultural land" means land used for farming;
(2) "Farming" means the cultivation of land for the production of agricultural crops; livestock or livestock products; poultry or poultry products; milk or dairy products; or fruit or other horticultural products. It shall not include the following:
(a) Production of timber or forest products;
(b) Contracts whereby a processor or distributor of farm products or supplies provides spraying, harvesting, or other farm services;
(c) Experimentation related to the production of pesticides, herbicides, or insecticides; and
(d) Production of seed stock.
(3) "Family farm" means an unincorporated farming unit owned by one or more persons residing on the farm or actively engaging in farming;
(4) "Family farm corporation" means a corporation founded for the purpose of farming and the ownership of agricultural land in which the majority of the voting stock is held by the majority of the stockholders who are members of a family related to each other within the third degree of kindred, and at

least one of whose stockholders is a person residing on or actively operating the farm, and none of whose stockholders are corporations; provided, however, that a family farm corporation shall not cease to qualify as such hereunder by reason of any devise or bequest of shares of voting stock; and

(5) "Authorized farm corporation" means a corporation whose shareholders do not exceed ten in number, whose shareholders are all natural persons or estates, whose shares are all of one class, and whose revenues from rent, royalties, dividends, interest, and annuities do not exceed twenty percent of its gross receipts.

Section 3. A new section of KRS Chapter 247 is created to read as follows:

Notwithstanding the provisions of KRS Chapter 271A, no domestic or foreign corporation shall engage in farming. Nor shall any corporation, directly or indirectly, own, acquire, or otherwise obtain an interest, whether legal, beneficial, or otherwise, in any title to real estate used for farming or capable of being used for farming.

Section 4. A new section of KRS Chapter 247 is created to read as follows:

The provision of Section 3 of this Act shall not apply to:

(1) Agricultural land and land capable of being used for farming which:

(a) Was owned by a corporation as of July 1, 1976, including the normal expansion of such ownership at a rate not to exceed twenty percent, measured in acres, in any five-year period; or

(b) Is leased by a corporation in an amount, measured in acres, not to exceed the acreage under lease to such corporation as of July 1, 1976 and the additional acreage required for normal expansion at a rate not to exceed twenty percent in any five-year period; and

(c) The additional acreage necessary to meet the requirements of pollution control regulations;

(2) A family farm corporation or an authorized farm corporation;

(3) Any national or state chartered bank or trust company authorized to conduct business in this state when operating a farm as a trustee or as an administrator or executor of an estate;

(4) A bona fide encumbrance taken for purposes of security;

(5) Agricultural lands acquired by a corporation by process of law in the collection of debts; or by any procedure for the enforcement of a lien or claim thereon, whether created by mortgage or otherwise; provided, however, that all lands so acquired be disposed of within ten years after acquiring the title thereto; and further provided that the land so acquired shall not be used for farming during the ten-year period except under a lease to a family farm unit, a family farm corporation, or an authorized farm corporation. The ten-year limitation period shall be deemed a convenant running with the title to the land against any corporate grantee, assignee, or the successor of such corporation;

(6) Gifts of agricultural lands, either by grant or devise, to any nonprofit corporation;

(7) A state-supported farm operated for teaching, research, or experimental purposes; provided, however, that commercial sales from the farm shall be incidental to the teaching, research, or experimental objectives; and

(8) Agricultural land acquired by a corporation other than a family farm corporation or authorized farm corporation for immediate or potential use in nonfarming purposes. A corporation may hold such agricultural land in such acreage as may be necessary to its nonfarm business operation; provided, however, that pending the development of agricultural land for nonfarm purposes, such land may not be used for farming except under lease to a family farm unit, a family farm corporation, an authorized farm corporation, or except when controlled through ownership, options, leaseholds or other agreements by a corporation which has entered into an agreement with the federal government pursuant to the New Communities Act of 1968, Title IV of the Housing and Urban Development Act of 1968, 42 U&S&C&A& 3901-3914, as amended, or a subsidiary or assign of such a corporation.

Section 5. A new section of KRS Chapter 247 is created to read as follows:

Every corporation engaged in farming or proposing to commence farming shall file with the secretary of state a report containing:

(1) The name of the corporation and its place of incorporation;

(2) The address of the registered office of the corporation in this state, the name and address of its registered agent in this state, and in the case of a foreign corporation, the address of its principal office in its place of incorporation;

(3) The acreage and location listed by county of each lot or parcel of land in this state owned or leased by the corporation and used for farming; and

(4) The names and addresses of the officers and the members of the board of directors of the corporation.

Section 6. A new section of KRS Chapter 247 is created to read as follows:
The report of a corporation seeking to qualify hereunder as a family farm corporation or an authorized farm corporation shall contain, in addition:
(1) The number of shares owned by persons residing on the farm or actively engaged in farming, and their relatives within the third degree of kindred;
(2) The name, address and number of shares owned by each shareholder; and
(3) A statement as to percentage of gross receipts of the corporation derived from rent, royalties, dividends, interest, and annuities.

Section 7. A new section of KRS Chapter 247 is created to read as follows:
No corporation shall commence farming until the secretary of state has inspected the report required by Section 5 of this Act and certified that its proposed operations comply with the provisions of Section 5 and Section 6 of this Act.

Section 8. A new section of KRS Chapter 247 is created to read as follows:
(1) Every corporation, except as provided in subsection (2) of this section, engaged in farming shall, prior to April 15 of each year, file with the secretary of state a report containing the information required in Section 5 and Section 6 of this Act based upon its operations in the preceding calendar year and its status at the end of such year.
(2) A corporation certified by the secretary of state as a qualified family farm corporation or as a qualified authorized farm corporation shall report as required by Section 5 and Section 6 of this Act by April 15 of the fifth year following certification.

Section 9. A new section of KRS Chapter 247 is created to read as follows:
If the attorney general has reason to believe that a corporation is in violation of this Act, he shall commence an action in the circuit court in which any agricultural lands relative to such violation are situated, or if situated in two or more counties, in any county in which a substantial part of the lands are situated. If the court finds that the lands in question are being held in violation of this Act, it shall enter an order so declaring.

Section 10. A new section of KRS Chapter 247 is created to read as follows:
The attorney general shall file any order under Section 9 of this Act for record with the county court clerk of each county in which any portion of said lands are located. Thereafter, the corporation owning such land shall have a period of five years from the date of such order to divest itself of such lands. This five-year limitation period shall be deemed a covenant running with the title to the land against any corporate grantee, assignee, or the successor of such corporation. Any lands not so divested within the time prescribed shall be sold at public sale in the manner prescribed by order of the court.

Section 11. A new section of KRS Chapter 247 is created to read as follows:
Every corporation which fails to file any report required under the provisions of this Act or wilfully files false information on any report required under the provisions of this Act shall be fined not more than $1,000.

The Committee Substitute for **HB 160** is as follows:

HB 160, AN ACT relating to farming.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. This Act shall be known as the Family Farm Act of 1976.

SECTION 2. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:
As used in this Act, unless the context otherwise requires, the term:
(1) "Agricultural land" means land used for farming;
(2) "Farming" means the cultivation of land for the production of agricultural crops; livestock or livestock products; poultry or poultry products; milk or dairy products; or fruit or other horticultural products. It shall not include the following:
(a) Production of timber or forest products;
(b) Contracts whereby a processor or distributor of farm products or supplies provides spraying, harvesting, or other farm services;

(c) Experimentation related to the production of pesticides, herbicides, or insecticides; and

(d) Production of seed stock.

(3) An "unauthorized corporation" means a corporation whose shareholders exceed ten in number except when related to each other within the third degree of kindred, whose shareholders are not all natural persons or estates, whose shares are not all of one class, and whose revenues from rent, royalties, dividends, interest, and annuities exceed twenty percent of its gross receipts.

SECTION 3. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:

Notwithstanding the provisions of KRS Chapter 271A, no domestic or foreign unauthorized corporation shall engage in farming. Nor shall any unauthorized corporation, directly or indirectly, own, acquire, or otherwise obtain an interest, whether legal, beneficial, or otherwise, in any title to real estate used for farming or capable of being used for farming.

SECTION 4. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:

The provision of Section 3 of this Act shall not apply to:

(1) Agricultural land and land capable of being used for farming which:

(a) Was owned by an unauthorized corporation as of July 1, 1976, including the normal expansion of such ownership at a rate not to exceed twenty percent, measured in acres, in any five-year period; or

(b) Is leased by an unauthorized corporation in an amount, measured in acres, not to exceed the acreage under lease to such corporation as of July 1, 1976 and the additional acreage required for normal expansion at a rate not to exceed twenty percent in any five-year period; and

(c) The additional acreage necessary to meet the requirements of pollution control regulations;

(2) Any national or state chartered bank or trust company authorized to conduct business in this state when operating a farm as a trustee or as an administrator or executor of an estate;

(3) A bona fide encumbrance taken for purposes of security;

(4) Agricultural lands acquired by a corporation by process of law in the collection of debts; or by any procedure for the enforcement of a lien or claim thereon, whether created by mortgage or otherwise;

(5) Gifts of agricultural lands, either by grant or devise, to any nonprofit corporation;

(6) A state-supported farm operated for teaching, research, or experimental purposes; provided, however, that commercial sales from the farm shall be incidental to the teaching, research, or experimental objectives; and

(7) Agricultural land acquired by an unauthorized corporation for immediate or potential use in nonfarming purposes. An unauthorized corporation may hold such agricultural land in such acreage as may be necessary to its nonfarm business operation;

SECTION 5. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:

Every corporation engaged in farming or proposing to commence farming shall file with the secretary of state a report containing:

(1) The name of the corporation and its place of incorporation;

(2) The address of the registered office of the corporation in this state, the name and address of its registered agent in this state, and in the case of a foreign corporation, the address of its principal office in its place of incorporation;

(3) The acreage and location listed by county of each lot or parcel of land in this state owned or leased by the corporation and used for farming; and

(4) The names and addresses of the officers and the members of the board of directors of the corporation.

(5) A statement as to percentage of gross receipts of the corporation derived from rent, royalties, dividends, interest, and annuities.

SECTION 6. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:

No corporation shall commence farming until the secretary of state has inspected the report required by Section 5 of this Act and certified that its proposed operations comply with the provisions of Section 5 of this Act.

SECTION 7. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:

If the attorney general has reason to believe that a corporation is in violation of this Act, he shall commence an action in the circuit court in which any agricultural lands relative to such violation are situated, or if situated in two or more counties, in any county in which a substantial part of the lands are situated. If the court finds that the lands in question are being held in violation of this Act, it shall enter an order so declaring.

SECTION 8. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:

The attorney general shall file any order under Section 7 of this Act for record with the county court clerk of each county in which any portion of said lands are located. Thereafter, the corporation owning such land shall have a period of five years from the date of such order to divest itself of such lands. This five-year limitation period shall be deemed a covenant running with the title to the land against any corporate grantee, assignee, or the successor of such corporation. Any lands not so divested within the time prescribed shall be sold at public sale in the manner prescribed by order of the court.

SECTION 9. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:

Every corporation which fails to file any report required under the provisions of this Act or willfully files false information on any report required under the provisions of this Act shall be fined not more than $1,000.

HB 338, AN ACT relating to the operation of water treatment plants and sewer treatment plants.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 223.991 is amended to read as follows:

Any person, firm or corporation (municipal or private) *who violates* [violating] any provisions of KRS 223.160 to 223.220 or the rules and regulations adopted thereunder *shall be liable to a civil penalty not to exceed the sum of one thousand dollars ($1,000) for said violation and an additional civil penalty not to exceed one thousand dollars ($1,000) for* [is guilty of a misdemeanor and shall be punished by a fine of not less than ten dollars ($10.00) nor more than one hundred dollars ($100).] *each* [Each] day of operation in violation of KRS 223.160 to 223.220 or of the rules and regulations adopted thereunder shall constitute a separate offense]. *In addition, the person, firm or corporation may be enjoined in the manner set forth in KRS 224.071 from continuing such violations.*

The Committee Amendment No. 1 to **HB 338** is as follows:

Amend printed copy of House Bill 338 on page 1, line 16 by striking "224.071" and substituting therefor "Chapter 224"

The Committee Amendment No. 2 to **HB 338** is as follows:

Amend printed copy of House Bill 338 on page 1, by striking the following from the title thereof: "and sewer treatment plants"

HB 541, AN ACT relating to abandoned animals.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 257.100 is amended to read as follows:

(1) Any peace officer or any officer of the accredited humane society or society for the prevention of cruelty to animals may destroy or kill or cause to be destroyed or killed, any animal found abandoned and suffering and not properly cared for, or appearing to be injured, diseased or suffering past recovery for any useful purpose.

(2) Before destroying the animal the officer shall obtain the judgment to that effect of a veterinarian, or of two (2) reputable citizens called by him to view the animal in his presence, or shall obtain consent to the destruction from the owner of the animal.

(3) Any animal placed in the custody of a licensed veterinarian for treatment, boarding or other care, which shall be unclaimed by its owner or his agent for a period of more than ten (10) days after written notice by registered or certified mail, return receipt requested, is given the owner or his agent at his last known address, shall be deemed to be abandoned and may be turned over to the nearest humane society, dog pound or animal shelter or disposed of as such custodian may deem proper.

The giving of notice to the owner, or the agent of the owner of such animal by the licensed veterinarian, as provided herein shall relieve the licensed veterinarian and any custodian to whom such animal may be given of any further liability for disposal.

For the purpose of this Act, the term "abandon" shall mean to forsake entirely, or to neglect or refuse to provide or perform the legal obligations for care and support of an animal by its owner, or his agent. Such abandonment shall constitute the relinquishment of all rights and claims by the owner to such animal.

HB 546, AN ACT relating to the state fair board.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 247.090 is amended to read as follows:
(1) The State Fair Board shall be composed of *eleven* [ten] members, as follows:
(a) The Governor;
(b) The Commissioner;
(c) The Dean of the College of Agriculture of the University of Kentucky; and
(d) *Eight* [Seven] members appointed from the state at large by the Governor with due consideration to geographical distribution throughout the state.

(2) The terms of the appointed members of the board shall be for four years, dating from the beginning of the terms for which they were respectively appointed, and until their successors are appointed and qualify. As the terms of each group of members expire, the Governor shall appoint successors for terms of four years and until their successors are appointed and qualify. Beginning with the appointments to be made for the terms commencing December 12, 1948, one member of the first group of successor members to be appointed shall be appointed from a list of six nominees consisting of three names from each of the two political parties polling the largest number of votes in the state at general elections submitted to the Governor by the governing body of the Kentucky Livestock Improvement Association, and beginning December 12, 1972, one member of the first group shall be appointed from a list of six nominees so submitted by the governing body of the Kentucky State National Farmers Organization, *and beginning December 12, 1976, one member of the first group shall be appointed from a list of six nominees so submitted by the governing body of the Kentucky State AFL-CIO*; one member of the second such group shall be appointed from a list of six nominees so submitted by the governing body of the American Saddle Horse Breeders Association; and one member of the third group shall be appointed from a list of six nominees so submitted by the governing body of the Kentucky Farm Bureau Federation. It is the intention of the General Assembly that the political affiliation of the appointed members shall be as evenly divided as possible between the two political parties polling the largest number of votes in the state at general elections.

(3) In case of a vacancy among the appointed members of the board, the unexpired term so occurring shall be filled by the Governor, who shall appoint a person having the same required qualifications as the person who theretofore held such office.

The Committee on Counties and Special Districts reported **HB 416,** with Committee Amendment attached thereto, **HB 514, HB 548** with Committee Amendment attached thereto, and **HB 627** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar

HB 416, AN ACT relating to election officials.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 117.045 is amended to read as follows:
(1) The county board of elections shall, not later than September 20 each year, appoint for each precinct in the county two (2) judges, one (1) clerk, and one (1) sheriff of election, who shall hold their offices for one (1) year and until their successors are appointed. They shall serve in all elections held in the county during the year. The county executive committees of the two (2) political parties having representation on the state board of elections may, on or before September 15 each year, designate in writing to the county board of elections a list of not less than eight (8) names for each precinct except that in any precinct where there are not as many as eight (8) persons possessing the qualifications of an election officer belonging to the political party filing the list, a less number may be designated. If there are two (2) or more contending executive committees of the same party in any county, the one (1) recognized by the written certificate of the chairman of the state central committee of the party shall be the one authorized to submit the lists. If lists are submitted, one (1) judge at each voting place shall be selected from each list, and the sheriff shall be chosen from one (1) list and the clerk from the other. If no lists are submitted, the officers of the election shall be so selected and appointed

that one (1) of the judges at each voting place is of one (1) political party and the other judge of a different political party, and there shall be a like difference at each voting place between the sheriff and the clerk of election. The county board of elections shall, within ten (10) days before the next ensuing election, give each election officer written notice of his appointment. The board may direct the sheriff of the county to serve the notice of appointment, if it deems such action is necessary.

(2) An election officer shall be a qualified voter of the precinct, and shall not be a candidate to be voted for at the election. An election officer may be removed, for cause, at any time up to five (5) days before an election. Vacancies shall be filled in the same manner as provided for original appointments and the person appointed to fill the vacancy shall be of the same political party as his predecessor.

(3) If the county board of elections fails to appoint election officers, or if any such officer fails to attend for thirty (30) minutes after the time for commencing the election, or refuses to act, the officer in attendance representing the political party of the absentee shall appoint a suitable person to act in his place for that election. If both representatives of the same political party are absent, qualified voters present affiliating with that party shall elect, viva voce, suitable persons to act in their places.

(4) *Each election* [Election] *officer* [officers] shall be paid *a minimum of* [not less than] fifteen dollars ($15.00) per day, *and such an additional amount as may be determined by the county board of elections,* [each] for each election in which *the election officer serves* [they serve], to be paid by the county. For delivering election returns, the sheriff and the judge of the opposite political party from the sheriff shall receive in addition *ten cents (10¢)* [eight cents (8¢)] for each mile necessarily traveled from the place of voting to and from the place of delivery, to be paid by the county.

The Committee Amendment to **HB 416** is as follows:

Amend printed copy of House Bill 416 on page 3, at the end of line 12: Insert "*with the approval of the governing body which would be responsible for funding said election officers' pay,*"

HB 514, AN ACT relating to county law libraries.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 172.130 is amended to read as follows:

Except as provided in KRS 172.200, the [The] members of the fiscal court shall be trustees of the county law library and shall see that the circuit clerk properly discharges his duties as librarian. The fiscal court may appropriate money out of the county treasury to pay for legal text books and decisions of the courts of other states, and to replace decisions of the Court of Appeals of Kentucky furnished by the state which have been lost, mutilated or destroyed.

Section 2. KRS 172.180 is amended to read as follows:

Any county containing a city of the second, third, [or] fourth, *fifth or sixth* class may adopt the following method of financing the cost of operation and maintenance of the county law library, in lieu of the method set out in KRS 172.130 or KRS 172.170:

(1) [Upon petition of three-fourths (3/4) of] *The* [the] duly licensed and practicing attorneys *residing* [resident] in *a* [the] county *may sign a petition,* addressed to the circuit judge of the county, to the effect that [they], as officers of the various courts of the county, *they* recognize the need of a more adequate county law library. [, there being attached to said petition] *An* [an] attested copy of a resolution of the fiscal court of the county indorsing the adoption of this optional method of financing the cost of operation and maintenance of the county law library *shall be attached to said petition.* [,] *The* [the] circuit judge *upon receipt of the petition signed by three-fourths (3/4) of the duly licensed and practicing attorneys residing in the county with the attached resolution of the fiscal court* shall enter an order upon the official order book of the circuit court of the county noting that said optional plan for the financing of the cost of operation and maintenance of the county law library has been adopted.

(2) The order shall set forth the name of each duly licensed and practicing attorney signing said petition, and the county court order book and page number containing the resolution of the fiscal court.

(3) The order shall direct the following:

(a) That the clerk of the circuit court shall forthwith cause to be delivered to the clerk of every court in the county, including quarterly, county, justice's, and city or police courts, a certified copy of the order;

(b) That upon receipt of the order by the clerks of said courts there shall be taxed as costs in all actions, except examining trials and felony trials, thereafter instituted in said courts the following fee, which shall be designated as county law library fee: in quarterly, county, justice's, and city or police courts, a sum not to exceed fifty cents (50¢); in circuit courts, on all civil actions a sum not to exceed one dollar ($1.00); and on all misdemeanor trials, a sum not to exceed fifty cents (50¢); and

(c) That the clerks of the various courts shall at the end of each month, pay all sums collected as county law library fee in their respective courts, during the preceding month, to the trustees of the county law library, and the clerks shall make a full report with said payment, and receive a receipt for all payments.

HB 548, AN ACT relating to planning commissions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 100.143 is amended to read as follows:

The term of office of all elected public officials appointed to a planning commission shall be the same as their official tenure in office. The term of office for other members of the planning commission shall be four (4) years *with no appointed member serving consecutive terms*, but the term of office of members first appointed shall be staggered so that a proportionate number serve one (1), two (2), three (3), and four (4) years respectively, and later appointments or reappointments shall continue the staggered pattern. The pattern for staggering the terms of the members first appointed shall be stated in a regulation or in the agreement under which the unit operates, as applicable.

The Committee Amendment to **HB 548** is as follows:

Amend printed copy of House Bill 548 on page 1, line 7, after "*serving*", insert "*more than two (2)*" before the word "*consecutive*"

HB 627, AN ACT relating to county offices and officers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 64.840 is amended to read as follows:

Except for taxes collected on behalf of the state for which standard receipt forms had been supplied by the state prior to 1974, all county officials shall, upon the receipt of any fine, forfeiture, or fee, prepare a receipt *that meets the specifications of the state local finance officer* [in triplicate for the full amount paid to him in each case, giving the full name and address of the person paying the fine, forfeiture or fee]. One (1) copy of the receipt shall be given to the person paying the fine, forfeiture, or fee *and*[,] one (1) copy shall be retained by the official for his own records [, and the other copy shall be retained by the official to be filed either with the county treasurer, or in the case of the county clerk, sheriff, and jailer in counties having a population of 75,000 or more, with the executive department for finance and administration].

The Committee on Health and Welfare reported **HB 478, HB 488, HB 489** with Committee Amendment attached thereto, **HB 500, HB 509,** and **HB 574** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 478, AN ACT relating to notification of officials at the time of release of inmates from confinement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 197.170 is amended to read as follows:

(1) The superintendents of the state penitentiaries upon the release of any prisoner or inmate from confinement, shall immediately notify *circuit court,* the commonwealth's attorney of the district, the county attorney and sheriff of the county and the chief of police of the city, to which the inmate is released, giving the residence of the person released and the name of the person to whom he was released.

(2) If the circuit court notified pursuant to subsection (1) of this Section, is a court other than the court which sentenced the inmate, the superintendent shall also notify the sentencing court.

HB 488, *AN ACT relating to fire safety regulations.*

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 227.300 is amended to read as follows:

(1) The commissioner shall promulgate reasonable rules and regulations based upon good engineering practice and principles as embodied in recognized standards of fire prevention and protection, providing for a reasonable degree of safety for human life against the exigencies of fire and panic, and insuring as far as is practicable against fire loss. Such rules and regulations shall be known as the standards of safety.

(2) In making such rules and regulations the commissioner shall establish minimum fire prevention and protection requirements, including but not limited to requirements for design, construction, installation, operation, storage, handling, maintenance or use of the following: structural requirements for the various types of construction; building restrictions within congested districts; exit facilities from structures; fire alarm systems and fire extinguishing systems; fire emergency drills; requirements for buildings of public assembly; flue and chimney construction; heating devices; electrical wiring and equipment; air conditioning, ventilating and other duct systems; refrigeration systems; flammable liquids, oil and gas wells; garages, repair and service shops; application of flammable finishes, explosives, acetylene, liquefied petroleum gas and similar products; calcium carbide and acetylene generators; dry cleaning and dyeing plants; flammable motion picture film; combustible fibres; airports and airport buildings; hazardous chemicals; rubbish, open flame devices; parking of vehicles; dust explosions; lightning protection; and other special fire hazards.

(3) The commissioner shall publish guidelines relating to the standards of safety as they apply to day care and preschool child care centers and nurseries, which shall indicate the items inspectors from the office of the state fire marshal will be looking for when they conduct inspections pursuant to the standards of safety. Such guidelines shall be made available to persons who own, operate or manage such centers or nurseries, and shall be designed to enable said persons to anticipate and comply with the requirements of the standards of safety.

HB 489, AN ACT relating to fire safety regulations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 227.300 is amended to read as follows:

(1) The commissioner shall promulgate reasonable rules and regulations based upon good engineering practice and principles as embodied in recognized standards of fire prevention and protection, providing for a reasonable degree of safety for human life against the exigencies of fire and panic, and insuring as far as is practicable against fire loss. Such rules and regulations shall be known as the standards of safety.

(2) In making such rules and regulations the commissioner shall establish minimum fire prevention and protection requirements, including but not limited to requirements for design, construction, installation, operation, storage, handling, maintenance or use of the following: structural requirements for the various types of construction; building restrictions within congested districts; exit facilities from structures; fire alarm systems and fire extinguishing systems; fire emergency drills; requirements for buildings of public assembly; flue and chimney construction; heating devices; electrical wiring and equipment; air conditioning, ventilating and other duct systems; refrigeration systems; flammable liquids, oil and gas wells; garages, repair and service shops; application of flammable finishes, explosives, acetylene, liquefied petroleum gas and similar products; calcium carbide and acetylene generators; dry cleaning and dyeing plants; flammable motion picture film; combustible fibres; airports and airport buildings; hazardous chemicals; rubbish, open flame devices; parking of vehicles; dust explosions; lightning protection; and other special fire hazards.

(3) For the purpose of integrating the need for safety from hazards of fire with the other safety needs of infants or preschool children under institutional care, the commissioner shall allow persons who own, manage or are employed by institutions which provide care or education for infants or preschool children to participate in drafting the standards of safety as they apply to such institutions. Such participation shall be by representation of professional associations relating to infant and preschool care, and by representation from other individuals licensed to provide infant and preschool care, on a committee chaired by the state fire marshal or his designate. Such participation shall occur prior to the publication of proposed regulations in the administrative register pursuant to KRS 13.085 and 13.096, but shall not limit any individual's right to use those procedures set forth in KRS Chapter 13 concerning comment on or protest of proposed regulations.

The Committee Amendment to **HB 489** is as follows:

Amend printed copy of House Bill 489 on page 3, line 4 by adding at the end of the sentence ending with the word "*regulations.*" the following sentence: "*All professional associations relating to infant and preschool care shall be notified by the commissioner when the drafting of standards of safety relating to such institutions is commenced and all such professional associations shall be regularly notified of the time and place of any meetings conducted by authorized employes of the department for the purpose of drafting such standards.*"

HB 500, AN ACT relating to medical scholarships.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 211.290 is amended to read as follows:
The Kentucky department for human resources shall aid, assist and promote the rural Kentucky medical scholarship fund [with such sums as may, from time to time, be appropriated by the general assembly for this purpose]. *There shall be a minimum of fifty (50) scholarships provided for each fiscal year for the Kentucky Medical Scholarship Fund.*

Section 2. KRS 211.310 is amended to read as follows:
A loan or scholarship shall not exceed *four thousand dollars ($4,000)* [one thousand dollars ($1,000)] per annum, to defray tuition and other expenses in a medical college or school approved by the department. The grant shall be based upon the condition that on or before six (6) months from the date the applicant completes one (1) year of internship he engage in public health work at some place within the commonwealth approved by the department at the rate of one (1) year for each *four thousand dollars ($4,000)* [one thousand dollars ($1,000)], or proportional time for lesser amounts, which shall constitute repayment of the loan or scholarship. Where the department is convinced that there is justifiable cause which the applicant could not have foreseen, the department may allow him to repay the loan or scholarship by paying in cash the full amount of the loan or scholarship plus six per cent (6%) interest.

Section 3. KRS 211.315 is amended to read as follows:
Before being granted a loan or scholarship each applicant shall enter into a contract with the Department for Human Resources which shall be deemed a contract with the Commonwealth of Kentucky, agreeing to the terms and conditions upon which the loan or scholarship shall be granted to him. The contract shall include such terms and provisions as will carry out the purpose and intent of KRS 211.300 to 211.330 and shall be signed by the Secretary for Human Resources and signed by the applicant. *The applicant's failure to fulfill the provisions of the contract shall entitle the rural Kentucky Medical Scholarship Fund to recover from the applicant the amount of five thousand dollars ($5,000) for each year of failure. Such sum shall be due and payable within 90 days of the time the applicant should have commenced his rural medical practice and shall be in addition to all other sums due and payable under the contract.*

SECTION 4. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:
The Kentucky Medical Scholarship Fund shall provide establish practice loan agreements for the purpose of establishing medical practices in rural areas of Kentucky. The loan shall not exceed fifteen thousand dollars ($15,000) and shall be repaid within five (5) years of the date the loan was made. The applicant shall, if he ceases to practice in an approved rural area, be required to pay the unpaid balance on the loan with the maximum rate of interest permitted under Kentucky law from the date of default of the said loan until paid.

HB 509, AN ACT relating to home health care.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 205.540 is amended to read as follows:
(1) An advisory council for medical assistance shall be established in the state government. The council shall consist of *fourteen (14)* [thirteen (13)] members. The secretary for human resources shall be an ex officio member. The other *thirteen (13)* [twelve (12)] members of the council shall be appointed by the Governor and shall hold office for a term of four (4) years and until their successors are appointed and qualify, except that the members appointed to fill the first vacancy occurring for a term beginning on July 1, 1960, shall be as

follows: Two (2) members shall be appointed for one (1) year, two (2) for two (2) years, two (2) for three (3) years, and three (3) for four (4) years, and the respective terms of the first members shall be designated by the Governor at the time of their appointments. The term of the first optometrist member shall begin July 1, 1970. The term of the first podiatrist member shall begin July 1, 1974. *The term of the first home health care provider member shall begin July 1, 1976.* Upon the expiration of the respective terms of the members first appointed, the term of each successor shall be for four years or until his successor is appointed and qualified. Appointments shall be made one from each list of three nominees submitted by the following organizations: the Kentucky State Medical Association; the Kentucky Dental Association; the Kentucky Hospital Association; the Kentucky Pharmaceutical Association; the Kentucky Association of Nursing Homes and Personal Care Homes; the Kentucky State Association of Registered Nurses; *the Kentucky Home Health Association;* and the Kentucky Optometric Association. The other five appointive members shall be intelligent and discreet citizens residing within the Commonwealth, who are not members of professional groups which are recipients of vendor payments. No nominee or member of the council shall be a stockholder or have any financial interest in any hospital, nursing home, or related institution.

(2) Each appointive member of the council shall serve without compensation but shall be entitled to reimbursement for his actual and necessary expenses in carrying out his duties.

(3) Vacancies shall be filled for the unexpired term in the same manner as original appointments, maintaining representations as set out in subsection (1) of this section.

(4) The council shall elect a chairman, vice-chairman, and secretary from among its members at its first regular meeting in each fiscal year and shall adopt rules governing its proceedings. The council shall hold a meeting at least once every three (3) months and such other special or regular meetings as may be desired.

Section 2. KRS 205.590 is amended to read as follows:

(1) The following technical advisory committees shall be established for the purpose of acting in an advisory capacity to the council with respect to the administration of the medical assistance program and in performing the function of peer review:

(a) A Technical Advisory Committee on Physician Services consisting of five physicians appointed by the Council of the Kentucky State Medical Association;

(b) A Technical Advisory Committee on Hospital Care consisting of five hospital administrators appointed by the Board of Trustees of the Kentucky Hospital Association;

(c) A Technical Advisory Committee on Dental Care consisting of five dentists appointed by the Kentucky Dental Association;

(d) A Technical Advisory Committee on Nursing Service consisting of five nurses appointed by the Board of Directors of the Kentucky State Association of Registered Nurses;

(e) A Technical Advisory Committee on Drugs consisting of five pharmacists appointed by the Kentucky Pharmaceutical Association;

(f) A Technical Advisory Committee on Nursing Home Care consisting of five members appointed by the Kentucky Association of Nursing Homes;

(g) A Technical Advisory Committee on Optometric Care consisting of five members appointed by the Kentucky Optometric Association;

(h) A technical advisory committee on podiatric care consisting of five podiatrists appointed by the Kentucky Podiatry Association*;* [.]

(i) A technical advisory committee on home health care consisting of five (5) members appointed by the board of directors of the Kentucky Home Health Association.

(2) The members of the technical advisory committees shall serve until their successors are appointed and qualified.

(3) Each appointive member of a committee shall serve without compensation but shall be entitled to reimbursement for actual and necessary expenses in carrying out his duties.

HB 574, AN ACT relating to emergency vehicles.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 189.910 is amended to read as follows:

(1) As used in KRS 189.920 to 189.950, "emergency vehicle" means any vehicle used for emergency purposes by a fire department; any vehicle used for emergency purposes by the state police, a public police department, or sheriff's office; any vehicle used for emergency purposes by a rescue squad *or by public emergency medical services*; any publicly owned vehicle used for emergency purposes by a civil defense agency; ambulances; any vehicle commandeered by a police officer; or any motor vehicle used by a volunteer fireman while responding to an emergency.

(2) As used in KRS 189.920 to 189.950, "public safety vehicle" means public utility repair vehicle; wreckers; state, county, or municipal service vehicles and equipment; highway equipment which performs work that requires stopping and standing or moving at slow speeds within the traveled portions of highways; and vehicles which are escorting wide-load or slow-moving trailers or trucks.

The Committee on Labor and Industry reported **HB 129, HB 436, HB 450,** HB 477, **HB 510, HB 533,** and **HB 568** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 129, AN ACT relating to wages and hours.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 337.010 is amended to read as follows:

(1) As used in this chapter, unless the context requires otherwise:

(a) "Commissioner" means commissioner of labor; and

(b) "Department" means department of labor.

(2) As used in KRS 337.275 to 337.325, 337.345, and 337.385 to 337.405 unless the context requires otherwise:

(a) "Wages" include any compensation due to an employe by reason of his employment, payable in legal tender of the United States or checks on banks convertible into cash on demand at full face value, subject to such allowances made in this chapter;

(b) "Employer" is any person who employes an employe and includes any person acting directly or indirectly in the interest of an employer in relation to an employe; and

(c) "Employe" is any person employed by or suffered or permitted to work for an employer, but shall not include:

(i) Any individual employed in agriculture;

(ii) Any individual employed in a bona fide executive, administrative, supervisory or professional capacity, or in the capacity of outside salesman, or as an outside collector as such terms are defined by administrative regulations of the commissioner;

(iii) Any individual employed by the United States;

(iv) Any individual employed in domestic service in or about a private home. The provisions of this section shall include individuals employed in domestic service in or about the home of an employer where there is more than one domestic servant regularly employed;

(v) Any individual classified and given a certificate by the commissioner of labor showing a status of learner, apprentice, handicapped worker, sheltered work-shop employe, and student under administrative procedures and administrative regulations as prescribed and promulgated by the commissioner of labor. This certificate shall authorize employment at such wages, less than the established fixed minimum fair wage rates, and for such period of time as shall be fixed by the commissioner and stated in the certificate issued to such person;

(vi) Employes of retail stores, service industries, hotels, motels, and restaurant operations whose average annual gross volume of sales made for business done is less than ninety-five thousand dollars ($95,000) for the five (5) preceding years exclusive of excise taxes at the retail level or if the employe is the parent, spouse, child, or other member of his employer's immediate family;

(vii) Any individual employed as a babysitter in employer's home, or live-in companion to a sick, convalescing or elderly person whose principal duties do not include housekeeping;

(viii) Any individual engaged in the delivery of newspapers to the consumer.

(d) "Agriculture" means farming in all its branches, including the cultivation and tillage of the soil, dairying, the production, cultivation, growing, and harvesting of any agricultural or horticultural commodity, the raising of livestock, bees, furbearing animals or poultry, and any practice, including any forestry or lumbering operations, performed on a farm in conjunction with such farming operations, including the preparation and delivery of produce to storage, or to market or to carriers for transportation to market;

(e) "Gratuity" means voluntary monetary contribution received by an employe from a guest, patron or customer for services rendered;

(f) "Tipped employe" means any employe engaged in an occupation in which he customarily and regularly receives more than $20.00 per month in tips;

(g) "U&S&C&" means the United States Code.

(3) As used in KRS 337.505 to 337.550 unless the context requires otherwise:

(a) "Construction" includes construction, reconstruction, improvement, enlargement, alteration or repair or any public works by contract fairly estimated to cost more than $500;

(b) "Contractor" and "subcontractor" include any superintendent, foreman, or other authorized agent of any contractor or subcontractor who is in charge of the construction of the public works or who is in charge of the employment or payment of the employes of such contractor or subcontractor who are employed in performing the work to be done or being done by the contractor or subcontractor under the particular contract with any public authority;

(c) 1. "Locality" *shall be determined by the Commissioner of Labor. He may designate any number of counties as constituting a single locality. He may also designate all counties of the Commonwealth as a single locality, but, in no event, shall he designate less than an entire county as a locality* [means the county where the physical work upon public works is performed, except if there is not available in the locality a sufficient number of competent skilled laborers, workmen, and mechanics to efficiently and properly construct the public works, "locality" shall include any other locality nearest the one in which the work of construction is to be performed and from which such available skilled laborers, workmen, and mechanics may be obtained in sufficient number to perform the work].

2. "Locality" with respect to contracts advertised or awarded by the department of transportation of this state shall be determined by the secretary of transportation. He may designate any number of counties as constituting a single locality. He may also designate all counties of the commonwealth as a single locality, but, in no event, shall he designate less than an entire county as a locality.

(d) "Public authority" means any officer, board, or commission of this state, or any political subdivision or department thereof in the state, or any institution supported in whole or in part by public funds, including publicly owned or controlled corporations, authorized by law to enter into any contract for the construction of public works; and

(e) "Public works" includes all buildings, roads, streets, alleys, sewers, ditches, sewage disposal plants, waterworks and all other structures or work constructed under contract with any public authority.

(4) In any case where the federal government or any of its agencies furnishes by loans or grants any part of the funds used in constructing public works, and if the federal government or its agencies prescribe predetermined prevailing minimum wages to be paid to mechanics, workmen, and laborers employed in the construction of such public works and where KRS 337.505 to 337.550 is also applicable, those wages in each classification which are higher shall prevail.

HB 436, AN ACT relating to the Fair Labor Standards Act.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 337.285 is amended to read as follows:

No employer shall employ any of his employes for a work week longer than forty hours, unless such employe receives compensation for his employment in excess of forty hours in a work week at a rate of not less than one and one-half times the hourly wage rate at which he is employed. This provision does not apply to employes of retail stores engaged in work connected with selling, purchasing and distributing merchandise, wares, goods, articles or commodities or to employes of restaurant, hotel and motel operations or to employes as defined and exempted from the overtime provision of the Fair Labor Standards Act in section 213(6) *and 213(a)(b)(17)* of Title 29, U.S.C.

HB 450, AN ACT relating to workmen's compensation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 342.316 is amended to read as follows:

(1) (a) The employer liable for compensation for occupational disease shall be the employer in whose employment the employe was last exposed to the hazard of the occupational disease during any period in which this section is applicable to a coal mine, an operator who acquired it or substantially all of its assets from a person who was its operator on and after January 1, 1973 shall be liable for, and secure the payment of, the benefits which would have been payable by the prior operator under this section with respect to miners previously employed in the mine if it had not been acquired by such later operator. At the same time, however, this subsection does not relieve the prior operator of any liability under this section. Also, it does not affect

whatever rights the later operator might have against the prior operator. Said employer shall have the right to contribution from each previous employer, as determined in an independent civil action, wherein the employe was similarly exposed to the hazard of said occupational disease, in a sum equal to the ratio that each exposure employment time bears to the total exposure employment time except as otherwise provided in paragraph (a) of subsection (13) of this section.

(b) The time of the beginning of compensation payments shall be the date of the employe's last injurious exposure to the cause of the disease, or the date of actual disability, whichever is later.

(2) (a) The procedure with respect to the giving of notice and determination of claims in occupational disease cases and the compensation and medical benefits payable for disability or death due to such disease shall be the same as in cases of accidental injury or death under the general provisions of this chapter except that notice of claim shall be given to the employer as soon as practicable after the employe first experiences a distinct manifestation of an occupational disease in the form of symptoms reasonably sufficient to apprise him that he has contracted such disease, or a diagnosis of such disease is first communicated to him, whichever shall first occur.

(b) The procedure with respect to filing of claims shall be as follows:

1. The application shall set forth the work history of the applicant with a concise description of injurious exposure to a specific occupational disease together with the names and addresses of employer or employers with the approximate date of employment and shall also include with the application two written medical reports supporting his claim. These medical reports shall be made on the basis of comprehensive clinical examinations and shall contain full and complete statements of the results thereof. The reports shall be made by duly licensed physicians. The clinical examinations shall include x-ray examinations. However, the failure of an x-ray examination to disclose the presence of an occupational disease shall not affect the legal presumption referred to in subsection (5) of this section.

2. The filing of a properly executed application for adjustment of claim, accompanied by the two medical reports described in subparagraph 1. of this paragraph, shall satisfy the requirements of the presumptive clause set out in subsection (5) of this section and the burden of proof shall immediately thereafter shift to the employer and the special fund.

3. Immediately upon receipt of said application for adjustment of claim, the board shall notify the affected employer, the special fund and any other interested party of such claim and shall furnish them with a full and complete copy of the claim.

4. Upon receipt of notice of claim the employer, the special fund, and any other interested party shall have the right to have the claimant examined by competent medical experts, at their expense, including a reasonable sum for travel. After said examination, the claimant or his representative, shall be furnished a copy of said medical report within a reasonable time.

5. Within sixty (60) days of the filing of the claim the employer, the special fund, and any other interested party shall notify the board and the claimant whether or not the claim will be resisted. If the claim is not resisted, then the board shall within ten (10) days enter an order and award for the claimant. If the claim is resisted, the board shall set a date for a hearing and shall notify all parties thereof. In litigated claims the regular procedures prescribed by the workmen's compensation board shall be followed.

(3) The right to compensation under this chapter for disability resulting from an occupational disease shall be forever barred unless a claim is filed with the workmen's compensation board within three (3) years after the last injurious exposure to the occupational hazard or after the employe first experiences a distinct manifestation of an occupational disease in the form of symptoms reasonably sufficient to apprise him that he has contracted the disease, whichever shall last occur; and if death results from the occupational disease within said period, unless a claim therefor be filed with the workmen's compensation board within three (3) years after such death; provided, however, that notice of such claim shall be deemed waived in case of disability or death where the employer, or his insurance carrier, voluntarily makes payment therefor, or, if the incurrence of the disease or the death of the employe, and its cause was known to the employer. Provided, however, that the right to compensation for any occupational disease shall be forever barred unless a claim is filed with the workmen's compensation board within five (5) years from the last injurious exposure to the occupational hazard, except that, in cases of radiation disease, a claim must be filed within 20 years from the last injurious exposure to the occupational hazard.

(4) The amount of compensation payable for disability due to occupational disease or for death from such disease, and the time and manner of its payment, shall be the same as provided for accidental injury or death under the general provisions of the workmen's compensation act, but in no event to exceed such amounts as were in effect at the time of the last injurious exposure, and provided further, that the time of the beginning of compensation payments shall be the date of the employe's last injurious exposure to the cause of the disease, or the date of actual disability, whichever is later, and provided further, that in case of death where the employe has been awarded compensation or made timely claim within the period provided for in this section, an employe has suffered continuous disability to the date of his death occurring at any time within 20 years from the date of disability, his dependents, if any, shall be awarded compensation for his death

as provided for under the general provisions of the workmen's compensation act and in this section.

(5) Where the occupational disease is a compensable pneumoconiosis and there has been employment exposure for 10 years or more to an industrial hazard sufficient to cause the disability of pneumoconiosis there shall be a rebuttable presumption that the disability or death was due to the compensable pneumoconiosis.

(6) Where the employe is suffering or suffered from a chronic dust disease of the lung which (a) when diagnosed by chest roentgenogram, yields one or more large opacities (greater than one (1) centimeter in diameter) and would be classified in category A, B, or C in the international classification of radiographs of the pneumoconioses by the international labor organization, (b) when diagnosed by biopsy or autopsy, yields massive lesions in the lung, or (c) when diagnosis is made by other means, would be a condition which could reasonably be expected to yield results described in paragraph (a) or (b) if diagnosis had been made in the manner prescribed in paragraph (a) or (b), then there shall be an irrebuttable presumption that he is totally disabled due to pneumoconiosis or that his death was due to pneumoconiosis, as the case may be.

(7) In case of disability or death from silicosis, coal workers' pneumoconiosis, or any other compensable pneumoconiosis, complicated with tuberculosis of the lungs, pulmonary emphysema or other pulmonary dysfunction and there has been employment exposures to harmful dust or industrial hazards reasonably competent to produce such accompanying disease or dysfunction, there is a rebuttable legal presumption that all resultant disability therefrom is work related and compensable, and compensation shall be payable as for the uncomplicated disease, provided, however, that the disease or dysfunction was an essential factor in causing such disability or death.

(8) If an autopsy has been performed, no testimony relative thereto shall be competent unless the employer or his representative has available findings and reports of the pathologist or doctor who performed the autopsy examination.

(9) No compensation shall be payable for occupational disease if the employe at the time of entering the employment of the employer by whom compensation would otherwise be payable, falsely represented himself, in writing, as not having been previously disabled, laid off, or compensated in damages or otherwise, because of such disease, or failed or omitted truthfully to state to the best of his knowledge, in answer to written inquiry made by the employer, the place, duration and nature of previous employment, or, to the best of his knowledge, the previous state of his health.

(10) No compensation for death from occupational disease shall be payable to any person whose relationship to the deceased, which, under the provisions of this chapter would give right to compensation, arose, subsequent to the beginning of the first compensable disability, save only to after-born children of a marriage existing at the beginning of such disability.

(11) Whenever any claimant misconceives his remedy and files an application for adjustment of claim under the general provisions of this chapter and it is subsequently discovered, at any time before the final disposition of such cause, that the claim for injury, disability or death which was the basis for such application should properly have been made under the provisions of this section, then the application so filed may be amended in form or substance, or both, to assert a claim for such injury, disability or death under the provisions of this section, and it shall be deemed to have been so filed as amended on the date of the original filing thereof, and such compensation may be awarded as is warranted by the whole evidence pursuant to the provisions of this chapter. When such amendment is submitted, further or additional evidence may be heard by the board when deemed necessary. Nothing this section contains shall be construed to be or permit a waiver of any of the provisions of this chapter with reference to notice of time for filing of a claim, but notice of filing a claim, if given or done, shall be deemed to be a notice of filing of a claim under provisions of this chapter, if given or done within the time required herein.

(12) When an employe has an occupational disease that is covered by this chapter, the employer in whose employment he was last injuriously exposed to the hazard of the disease, and the employer's insurance carrier, if any, at the time of the exposure, shall alone be liable therefor, without right to contribution from any prior employer or insurance carrier; except as otherwise provided herein.

(13) (a) The employer liable for compensation for occupational diseases, other than silicosis or any other compensable pneumoconiosis, which developed to the point of disablement only after an exposure of five (5) or more years, or for silicosis and any other compensable pneumoconiosis, shall be the employer in whose employment the employe was last exposed to the hazard of such occupational disease. In those cases where disability or death are not conclusively proven to be the result of such last exposure all compensation shall be paid out of the special fund for all claims filed prior to January 1, 1973; and 75 percent shall be paid by the Special Fund and 25 percent by the employer for all claims filed thereafter. In all other cases of occupational diseases, other than silicosis or any other compensable pneumoconiosis, which developed to the point of disablement only after an exposure of five (5) or more years, or for silicosis and any other compensable pneumoconiosis, the compensation for disability or death due to such diseases shall be paid jointly by the employer and the special fund, and the employer shall be liable for sixty percent (60%) of the compensation due and the special fund shall be liable for forty percent (40%) of the compensation due. Provided, however, that when there is a joint award against the carrier or self-insured employer and the special fund under this

section, all of the compensation awarded shall be paid from the special fund and the special fund shall be reimbursed by the carrier or self-insured employer on a quarterly basis and under such regulations as the Board may provide for such purpose. *Where more than five percent (5%) of disbursements from the special fund in a single fiscal year are traceable to a single classification of employment as established in the Classifications Code of the National Council on Compensation Insurance, but not to a single employer, such disbursements shall be reimbursed to the special fund by an assessment against all workmen's compensation premiums written to cover said classification of employment in the manner set forth in 342.122(2) and by an assessment against the "adjusted costs" of self-insured employers. The commissioner of labor may combine two or more classifications in order to discharge the intent of this Act.*

(b) In all claims for compensation partially payable by the special fund the commissioner of labor, as custodian of said fund, shall be designated as codefendant.

(c) In all agreements for the payment of compensation and awards the amount payable by the employer and the amount payable out of the special fund shall be separately stated. An award against the employer shall be for only the percentage of the total compensation which the employer is obligated to pay. A separate award shall be made against the special fund for the balance of the compensation payable. Nothing in this section shall prohibit the commissioner of labor, as custodian of the special fund, from entering into agreements to pay the compensation for which it is liable; provided, however, that where compensation is payable by both the employer and the special fund, the commissioner shall not enter into an agreement unless the employer is a party to the agreement.

HB 477, AN ACT relating to workmen's compensation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 342.270 is amended to read as follows:

(1) If the parties fail to reach an agreement in regard to compensation under this chapter, either party may make written application to the board for a hearing in regard to the matter at issue and for a ruling thereon. Such application must be filed within two years after the accident, or, in case of death, within two years after such death, or within two years after the cessation of voluntary payments, if any have been made.

(2) Except with respect to uncontested claims for disability or death by reason of occupational diseases *within thirty (30) days,* [as soon as possible] after the application has been received the board shall *conduct* [set the date for] a hearing [, to be held as soon as practicable in view of the matter involved,] and shall *at least ten (10) days prior to the hearing* notify the parties at issue of the time and place of such hearing.

(3) Unless otherwise agreed to by the parties and authorized by the board, the hearing shall be held at or convenient to the place where the injury was sustained or the ground for disagreement occurred. Before directing a hearing, the board, a member thereof, the director or a hearing officer authorized by the board, may confer informally with the parties at issue in an attempt to assist in adjusting their differences, but may not delay the granting of a hearing, over the objection of either party, for such purpose.

(4) If the parties have previously filed an agreement which has been approved by the board and compensation has been paid or is due in accordance therewith and the parties thereafter disagree either party may invoke the provisions of KRS 342.125 which remedy shall be exclusive.

(5) An application for adjustment of claim shall be held in abeyance by the board during any period voluntary payments of compensation are being made under any benefit sections of this chapter to the maximum which the employe's wages shall entitle him, unless it shall be shown that the prosecution of the employe's claim would be prejudiced by delay.

Section 2. KRS 342.275 is amended to read as follows:

Except with respect to uncontested claims for disability or death by reason of occupation diseases, the board, or any of its members, the director or any hearing officer directed by the board shall *within thirty (30) days after the filing of the application* hear the parties at issue and their representatives and witnesses and the full board shall determine the dispute in a summary manner. The award, order or decision shall be made within thirty (30) days after final submission, except in cases involving large or complicated records or unusual questions of law, and shall be made within sixty (60) days after final submission in any event. However, if the award, order or decision is not rendered within thirty (30) days the board shall notify the parties in dispute setting out the reasons for such delay. The award, order or decision, together with a statement of the findings of fact, rulings of law and any other matters pertinent to the question at issue shall be filed with the record of proceedings, and a copy of the award, order or decision shall immediately be sent to the parties in dispute.

HB 510, AN ACT relating to Workmen's Compensation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 342.750 is amended to read as follows:

If the injury causes death, income benefits shall be payable in the amount and to or for the benefit of the persons following, subject to the maximum limits specified in subsections (3) and (4) of this section:

(1) (a) If there is a widow or widower and no children of the deceased, to such widow or widower 50 percent of the average weekly wage of the deceased, during widowhood or widowerhood.

(b) To the widow or widower, if there is a child or children living with the widow or widower, 45 percent of the average weekly wage of the deceased, or 40 percent, if such child is not or such children are not living with a widow or widower, and in addition thereto, 15 percent for each child. Where there are more than two such children, the indemnity benefits payable on account of such children shall be divided among such children, share and share alike.

(c) Two years' indemnity benefits in one lump sum shall be payable to a widow or widower upon remarriage.

(d) To the children, if there is no widow or widower, 50 percent of such wage for one child, and 15 percent for each additional child, divided among such children share and share alike.

(e) The income benefits payable on account of any child under this section shall cease when he dies, marries, or reaches the age of eighteen, or when a child over such age ceases to be physically or mentally incapable of self-support, or if actually dependent ceases to be actually dependent, or, if enrolled as a full-time student in any accredited educational institution, ceases to be so enrolled or reaches the age of 22. A child who originally qualified as a dependent by virtue of being less than 18 years of age may, upon reaching age 18, continue to qualify if he satisfies the tests of being physically or mentally incapable of self-support, actual dependency, or enrollment in an educational institution.

(f) To each parent, if actually dependent, 25 percent.

(g) To the brothers, sisters, grandparents, and grandchildren, if actually dependent, 25 percent to each such dependent. If there should be more than one of such dependents, the total income benefits payable on account of such dependents shall be divided share and share alike.

(h) The income benefits of each beneficiary under paragraphs (f) and (g) above shall be paid until he, if a parent or grandparent, dies, marries, or ceases to be actually dependent, or, if a brother, sister, or grandchild, dies, marries, or reaches the age of eighteen or if over that age ceases to be physically or mentally incapable of self-support, or ceases to be actually dependent.

(i) A person ceases to be actually dependent when his income from all sources exclusive of workmen's compensation income benefits is such that, if it had existed at the time as of which the original determination of actual dependency was made, it would not have supported a finding of dependency. In any event, if the present annual income of an actual dependent person including workmen's compensation income benefits at any time exceeds the total annual support received by the person from the deceased employe, the workmen's compensation benefits shall be reduced so that the total annual income is no greater than such amount of annual support received from the deceased employe. In all cases, a person found to be actually dependent shall be presumed to be no longer actually dependent three years after each time as of which the person was found to be actually dependent. This presumption may be overcome by proof of continued actual dependency as defined in this subsection, but full payments shall not be suspended during the pendency of any proceeding to determine dependency.

(j) If there are no dependents there shall be paid to the estate of the decendent a single lump sum payment of ten thousand dollars in lieu of all compensation other than weekly benefits to which the deceased was entitled to the date of his death, his reasonable medical and hospital expenses and the burial benefits provided in this chapter.

(2) Upon the cessation of income benefits under this section to or on account of any person, the income benefits of the remaining persons entitled to income benefits for the unexpired part of the period during which their income benefits are payable shall be that which such persons would have received if they had been the only persons entitled to income benefits at the time of the decedent's death.

(3) For the purposes of this section, the average weekly wage of the employe shall be taken as not more than the average weekly wage of the state as determined in KRS 342.740. In no case shall the aggregate weekly income benefits payable to all beneficiaries under this section exceed the maximum income benefit that was or would have been payable for total disability to the deceased, including benefits to his dependents.

(4) The maximum weekly income benefits payable for all beneficiaries in case of death shall not exceed 75 percent of the average weekly wage of the deceased as calculated under KRS 342.140, subject to the maximum limits in subsection (3) above. The maximum aggregate limitation shall not operate in case of payment of two years' income benefits to the widow or widower upon remarriage as provided under paragraph

(c) of subsection (1) of this section, to prevent the immediate recalculation and payments of benefits to the remaining beneficiaries as provided under subsection (2) of this section, but the weekly income benefits as to such remaining beneficiaries shall not exceed the weekly income benefit that was or would have been payable for total disability to the deceased. The classes of beneficiaries specified in paragraphs (a), (b) and (d) of subsection (1) shall have priority over all other beneficiaries in the apportionment of income benefits. If the provisions of this subsection should prevent payment to other beneficiaries of the income benefits to the full extent otherwise provided for by this section, the gross remaining amount of income benefits payable to such other beneficiaries shall be apportioned by class, proportionate to the interest of each class in the remaining amount. Parents shall be considered to be in one class and those specified in paragraph (f) of subsection (1) in another class.

(5) All relations of dependency referred to in this section shall mean dependency existing at the time of the accident to the employe or at the time his disability from an occupational disease began.

HB 533, AN ACT relating to labor relations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 336.130 is amended to read as follows:

(1) Employes may, free from restraint or coercion by the employers or their agents, associate collectively for self-organization and designate collectively representatives of their own choosing to negotiate the terms and conditions of their employment to effectively promote their own rights and general welfare. Employes, collectively and individually, may strike, engage in peaceful picketing, and assemble collectively for peaceful purposes.

(2) Neither employers or their agents nor employes or associations, organizations or groups of employes shall engage or be permitted to engage in unfair or illegal acts or practices or resort to violence, intimidation, threats or coercion.

(3) The employes and their agents shall not be restrained or enjoined from exercising the rights granted them in subsection (1) of this section without a hearing first being held and findings made pursuant to the Rules of Civil Procedure in the Commonwealth of Kentucky relating to motions for a temporary injunction, unless the employes or their agents are engaged in a strike in violation of a "no strike" clause in their labor contract.

HB 568, AN ACT relating to workmen's compensation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 342 IS CREATED TO READ AS FOLLOWS:

(1) Upon the filing of a claim the director shall ascertain whether the employer, or any other person against whom a claim is filed and who is not exempt by KRS 342.630 or KRS 342.650, has secured payment of compensation by either securing insurance coverage or qualifying as a self insurer pursuant to KRS 342.340. Upon determination that any employer under this chapter has failed to comply with the provisions of KRS 342.340, the director shall record, as provided by subsection (2), a certificate prepared and furnished him by a representative of the Uninsured Employers' Fund showing the date on which such claim was filed, the date of the injury alleged, the name and last known address of the employer against whom it was filed, and the fact that the employer has not secured the payment of compensation as required. Upon recordation, such certificate constitutes a valid lien against the assets of the employer in favor of the Uninsured Employers' Fund for the whole amount which may be due as compensation. Such lien shall be superior to the lien of any mortgage or other encumbrance thereafter created and shall continue for 10 years from the time of such recording unless sooner released or otherwise discharged. A copy of such certificate shall be served upon the employer by the director.

(2) The certificate constituting a lien in favor of the Uninsured Employers' Fund shall be filed in the following offices:

(a) The office of the County Court Clerk of the county in which the defendant employer resides.

(b) The office of the County Court Clerk of the county in which the defendant employer has its principal place of business.

(c) The office of the County Court Clerk in the counties where such employers' property is located.

SECTION 2. A NEW SECTION OF KRS CHAPTER 342 IS CREATED TO READ AS FOLLOWS:

A claimant may, in the original application for benefits, or any party may, by motion accompanied by proper allegations while the case is still pending, and the Board shall, upon its own motion at any time before the rendition of the final award, cause the Uninsured Employers' Fund to be made a party to the proceedings if it should appear that the named defendant has failed to secure the payment of compensation as required by KRS 342.340. A failure to timely join the Uninsured Employers' Fund as a party before the board shall constitute a waiver of claim against said Fund.

SECTION 3. A NEW SECTION OF KRS CHAPTER 342 IS CREATED TO READ AS FOLLOWS:

When an award is made against an employer who (1) has not secured payment of compensation by either securing insurance coverage or qualifying as a self insurer, and (2) has not made a deposit of security, indemnity or bond acceptable to the board to secure the payment of compensation liability and (3) has failed to make payment of compensation according to the terms of such award, the award shall constitute a liquidated claim for damages against such employer in an amount commuted to a lump sum which will equal the present value of the total sum of the probable future payments discounted at four percent (4%) true discount compounded annually on each payment, which amount is to be ascertained and fixed by the board, and the director shall certify the same to the Attorney General who shall forthwith institute a civil action against such employer in the name of the state for the collection of such award. In such action it shall be sufficient for plaintiff to set forth a copy of the award of the board relative to such claim as certified by the director and to state that there is due to plaintiff on such account of such opinion, order or award of the board a specified sum which plaintiff claims with interest. A certified copy of such award in such claim shall be attached to the complaint and constitutes prima facie evidence of the truth of the facts therein contained.

The Committee on Rules reported the following Bills and Resolutions have been posted for passage on February 27, 1976: **HB 61** with Committee Substitute attached thereto, **HB 107, HB 122** with Committee Substitute attached thereto, **HB 168** with Committee Amendment and Committee Substitute attached thereto, **HB 171** with Committee Amendment attached thereto, **HB 299** with Committee Amendment attached thereto, **HB 347, HB 361, HB 374** with Committee Substitute attached thereto, **HB 387, HB 456, HB 457, HB 468** with Committee Amendment attached thereto; **HB 476, HB 498, HB 499, HB 521, HB 527, HB 539, SB 20, SB 60, SB 85, SB 117,** and **SB 150.**

Posting of Bills and Resolutions for Consideration

The Clerk reported the following Bills and Resolutions have been posted for Committee consideration:

Cities: **HB 665.**

Banking and Insurance: **HB 566, HB 600.**

Judiciary-Statutes: **HB 646, SB 121.**

The Clerk reported the following Bill had been withdrawn from Committee consideration:

Labor and Industry: **HB 187.**

Calendar

SB 91, HB 349, HB 485, HB 540, HB 31 with Committee Substitute attached thereto, **HB 161, HB 276, HB 283, HB 414, HB 444, HB 432** with Committee Amendments attached thereto, **HB 526, HB 544** with Committee Amendment attached thereto, **SB 122, HB 364, HB 532,** and **HB 585** with Committee Amendment attached thereto taken from the Calendar and read at length for the second time. Representative B. Richardson moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Motions, Petitions and Communications

Representative Freeman moved the adoption of the following **HR 49**:

HR 49, A RESOLUTION directing a study of the lifeline telephone service.

WHEREAS, a telephone service is a basic element of modern life and should be made available at the lowest possible cost; and

WHEREAS, many citizens of the Commonwealth must live on fixed or low incomes and cannot afford conventional telephone service charges; and

WHEREAS, in many counties in the Commonwealth more than thirty (30) percent of the households are without telephones; and

WHEREAS, many citizens who cannot afford a telephone have greatest need for such a service by virtue of being isolated, old, disabled or handicapped; and

WHEREAS, many of the services of government such as police, fire protection, medical care can only be summoned in emergency circumstances by telephone; and

WHEREAS, the provision of a low cost, low usage lifeline telephone service is a complicated matter involving technical and economic consideration;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Legislative Research Commission coordinate a study by the Interim Joint Committee on Public Utilities and Transportation of the economic and technical feasibility of legislating a low cost, low usage lifeline telephone service for the citizens of the Commonwealth. If it is deemed necessary, the Legislative Research Commission shall make arrangements for expert witnesses to present testimony on the subject of lifeline telephone service.

Section 2. That the Legislative Research Commission report to the 1978 General Assembly the findings and recommendations of the study. Staff services to be utilized in completing this study are estimated to cost $20,000. These staff services shall be provided from the regular commission budget and are subject to the limitations and other research responsibilities of the Commission.

HR 49 was adopted by voice vote.

Representative Romines moved the adoption of the following **HR 72:**

HR 72, A RESOLUTION requesting a more rigid enforcement of school bus equipment inspections by the Pupil Transportation Division of the Jefferson County Board of Education.

WHEREAS, the safety and welfare of our school children should be of the utmost importance; and

WHEREAS, the school buses in Jefferson County travel in excess of 12,000 miles per day, causing extreme wear and tear on these vehicles; and

WHEREAS, there have been numerous school bus accidents in Jefferson County, resulting in injuries to students, drivers and other personnel; and

WHEREAS, several of these accidents have been due to mechanical failure which possibly could have been prevented by a more rigid vehicle equipment inspection; and

WHEREAS, there has been a substantial lack of enforcement of safety standards for school buses in Jefferson County;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Pupil Transportation Division of the Jefferson County Board of Education be and hereby is requested to more frequently inspect and more closely oversee school bus equipment inspections.

Section 2. That those vehicles inspected and declared unsafe by licensed inspectors be put out of service until the defect is satisfactorily corrected and the vehicle can pass the equipment inspection.

Section 3. That no vehicle more than 10 years of age be used to transport school children.

Section 4. That a duly attested copy of this resolution be transmitted upon its approval to the Kentucky Congressional Delegation, the Kentucky State Police, the Kentucky Department of Education and the Pupil Transportation Division of the Jefferson County Board of Education.

HR 72 was adopted by voice vote.

Representative Hardwick moved that he be allowed to sing "God Bless America" before the House during Motions, Petitions and Communications on March 11, 1976.

On the roll call the vote was yeas 40-Ackerson, Bendl, Bennett, Bevins, Blair, Blandford, Boatwright, Brinkley, Brown, Burnette, Clarke, Cooper, Crupper, Cyrus, Denham, Doss, Fitzgerald, Floyd, Foster, Freeman, Gray, Guenthner, Hardwick, Hughes, Imes, Kidd, King, Kleier, Muncy, Nett, O'Brien, Priddy, Rattliff, Robinson, Romines, Siler, Thomas, R. Turner, Vincent, Wible. Nays 18-B. Adams, J. Allen, W. Allen, Benson, Blume, Carpenter, Craddock, Deskins, Dietz, Hancock, Hurst, Kenton, Richards, B. Richardson, P. Richardson, Stephens, Tobin, White.

The motion that Representative Hardwick be allowed to sing "God Bless America" before the House during Motions, Petitions and Communications on March 11, 1976 was adopted.

Representative moved that the rules be suspended for the purpose of announcing a change in vote. Agreed.

Representative Beshear requested that he be recorded as voting "yea" instead of "nay" on **HB 134.**

Representative Hancock moved that **HB 657** be taken from the Committee on Highways and Traffic Safety and sent to the Committee on Labor and Industry. Agreed.

Representative Fitzgerald requested that he be recorded as voting "nay" on **HB 151.**

Representative DeMarcus requested that he be recorded as voting "yea" on **HB 73.**

Representative Doss requested that he be recorded as voting "yea" on **HB 135.**

Representative O'Brien moved the adoption of the following Legislative Citation No. 32:

The House of Representatives of the Commonwealth of Kentucky hereby honors the Fern Creek High School Drill Corps and congratulates them for having won the Kentucky Drill Corps competition on February 14, 1976. This body commends the outstanding characters and academic achievements of the girls in the Drill Corps and applauds the talent and efforts of the members and sponsors. This body extends best wishes to the Fern Creek High School Drill Corps as Kentucky's representatives in the National Drill Corps Competition in Columbus, Ohio on April 3rd and 4th, 1976. (Sponsored by Representative O'Brien)

Agreed.

Representative Clarke moved that the rules be suspended for the purpose of taking **HB 420** and **HB 425** from the Committee on Appropriations and Revenue and sending them to the Committee on Counties and Special Districts. Agreed.

The following members filed Floor Amendments to Bills and Resolutions: Representative Blume, Floor Amendment No. 3 to **HB 142;** Representative B. Richardson, Floor Amendment No. 1 to **HB 498;** Representative Overstreet, Floor Amendment No. 1 to **HB 361;** Representative B. Richardson, Floor Amendment No. 1 to **SB 100.**

Orders of the Day

Representative B. Richardson moved that consideration of **HB 377** and SB 33 be deferred and that they retain their position in Orders of the Day. Agreed.

HB 22, with Committee Substitute attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Donnermeyer moved the adoption of the Committee Substitute for **HB 22.** Agreed.

Representative Lindsay moved the adoption of the following floor amendment No. 2 to **HB 22:**

Amend printed copy of Committee Substitute to House Bill 22 on page 12, line 20 by inserting the following "Section 15. The provisions of this Act shall only apply to counties operating under urban county government."

On the roll call the vote was yeas 22-A. S. Adams, W. Allen, Blythe, Burnette, Cooper, Crupper, Denham, Deskins, Foster, Freeman, Gray, Head, Holbrook, Holloway, Imes, King, Lindsay, Maynard, Overstreet, P. Richardson, Robinson, Vincent. Nays 51-J. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blandford, Blume, Boatwright, Brinkley, Clarke, Craddock, Cyrus, DeFalaise, Donnermeyer, Doss, Dunn, Fitzgerald, Floyd, Guenthner, Hancock, Hopkins, Hughes, Isler, Kenton, Kleier, LeMaster, Mann, May, McBee, McGill, Morris, Muncy, Nett, Pearl, Priddy, Richards, Romines, Sale, Siler, Stephens, Stewart, Tobin, Thomas, J. Turner, R. Turner, Wible, Wright, Yates.

The Floor Amendment No. 2 to the Committee Substitute for **HB 22** was defeated.

Representative Donnermeyer moved that **HB 22,** by way of Committee Substitute, be passed.

Representative King moved that **HB 22,** as amended, be laid on the table.

On the roll call the vote was yeas 38-A. S. Adams, W. Allen, Blythe, Burnette, Carpenter, Cooper, Crupper, Denham, Deskins, Foster, Freeman, Gray, Hardwick, Head, Holbrook, Holloway, Hughes, Hurst, Imes, Jones, Kidd, King, Lindsay, Mason, McBride, Morris, Nett, O'Brien, Overstreet, Rattliff, Richards, P. Richardson, Schmidt, Stewart, Tobin, J. Turner, Vincent, Wright. Nays 40-B. Adams, J. Allen, Bendl, Bennett, Beshear, Bevins, Blair, Blume, Brinkley, Bruce, Cyrus, Dawahare, DeFalaise, Donnermeyer, Doss, Fitzgerald, Floyd, Guenthner, Hopkins, Isler, Kenton, Kleier, LeMaster, Mann, May, Maynard, McGill, Muncy, Pearl, Priddy, Robinson, Romines, Sale, Siler, Stephens, Thomas, R. Turner, Wells, Wible, Yates.

The motion that **HB 22,** as amended be laid on the table was defeated.

On the roll call the vote was yeas 46-B. Adams, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blume, Boatwright, Brinkley, Bruce, Clarke, Craddock, Cyrus, DeFalaise, Donnermeyer, Doss, Dunn, Fitzgerald, Guenthner, Hancock, Hopkins, Isler, Kenton, Kleier, LeMaster, Mann, May, Maynard, McBee, McGill, Muncy, Nett, Pearl, Priddy, Richards, B. Richardson, Romines, Sale, Siler, Stephens, Thomas, Wells, Wible, Yates. Nays 43-Ackerson, A. S. Adams, J. Allen, W. Allen, Blandford, Blythe, Brown, Burnette, Carpenter, Cooper, Crupper, Dawahare, Denham, Deskins, Foster, Freeman, Gray, Hardwick, Head, Holbrook, Holloway, Hughes, Hurst, Imes, Jones, Kidd, King, Lindsay, Mason, McBride, Morgan, Morris, O'Brien, Overstreet, Rattliff, P. Richardson, Robinson, Stewart, Tobin, J. Turner, Vincent, White, Wright.

HB 22, by way of Committee Substitute, was passed and the title agreed to.

Representative Donnermeyer moved that the vote by which **HB 22,** by way of Committee Substitute, was passed be reconsidered and said motion be postponed indefinitely.

On the roll call the vote was yeas 44-B. Adams, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blume, Brinkley, Clarke, Craddock, Cyrus, DeFalaise, Donnermeyer, Doss, Dunn, Fitzgerald, Guenthner, Hopkins, Isler, Kenton, Kleier, LeMaster, Mann, May, Maynard, McBee, McBride, McGill, Muncy, Pearl, Priddy, B. Richardson, Romines, Sale, Siler, Stephens, Stewart, Thomas, J. Turner, R. Turner, Wells, Wible, Yates. Nays 41-Ackerson, A. S. Adams, J. Allen, W. Allen, Blandford, Blythe, Brown, Carpenter, Cooper, Crupper, Dawahare, Denham, Deskins, Foster, Freeman, Gray, Hancock, Hardwick, Head, Holbrook, Holloway, Hughes, Hurst, Imes, Jones, Kidd, King, Lindsay, Mason, Morris, O'Brien, Overstreet, Rattliff, Richards, P. Richardson, Robinson, Schmidt, Tobin, Vincent, White, Wright.

The motion that the vote by which **HB 22,** by way of Committee Substitute, was passed be reconsidered and said motion be postponed indefinitely was adopted.

Representative B. Richardson moved that consideration of **HB 142** be deferred and that it retain its position in Orders of the Day. Agreed.

Representative Blandford moved that consideration of **HB 1,** with Committee Amendments attached thereto, be deferred and that it retain its position in Orders of the Day. Agreed.

HB 226, with Committee Substitute attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Mann moved the adoption of the Committee Substitute for **HB 226.** Agreed.

Representative Schmidt moved the adoption of the following Floor Amendment No. 1 to the Committee Substitute for **HB 226:**

Amend printed copy of Committee Substitute for House Bill 226 on page 2, line 7, by inserting after the word "physician," the following: "or a coroner,"

Agreed.

Representative Mann moved that **HB 226,** by way of Committee Substitute as amended, be passed.

Representative Mason moved that **HB 226,** by way of Committee Substitute as amended, be laid on the Clerk's desk.

On the roll call the vote was yeas 24-B. Adams, J. Allen, Arnold, Boatwright, Burnette, Crupper, Deskins, Dunn, Gray, Guenthner, Hancock, Hardwick, Holloway, Hopkins, Imes, Jones, King, Lindsay, Little, Mason, Nett, P. Richardson, Wells, Wible. Nays 48-Ackerson, Bendl, Bennett, Benson, Beshear, Blair, Blandford, Blume, Blythe, Brinkley, Brown, Clarke, Cooper, Craddock, Cyrus, DeFalaise, Dietz, Donnermeyer, Doss, Fitzgerald, Foster, Freeman, Holbrook, Hughes, Isler, Kenton, Kidd, Kleier, LeMaster, Mann, May, McBee, McBride, McGill, Morgan, O'Brien, Priddy, Richards, B. Richardson, Robinson, Sale, Schmidt, Stephens, Tobin, Thomas, R. Turner, Vincent, Wooden.

The motion that **HB 226,** by way of Committee Substitute as amended, be laid on the Clerk's desk was rejected.

Representative Mann moved that consideration of **HB 226,** by way of Committee Substitute as amended, be deferred and that it retain its position in Orders of the Day. Ageed.

HB 466, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Bendl moved the adoption of the Committee Amendment to **HB 466.** Agreed.

Representative Bendl moved that **HB 466,** as amended, be passed.

On the roll call the vote was yeas 81-Ackerson, B. Adams, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blandford, Blume, Blythe, Boatwright, Brinkley, Bruce, Burnette, Carpenter, Cooper, Craddock, Crupper, Cyrus, Dawahare, DeFalaise, Denham, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Floyd, Foster, Gray, Guenthner, Hancock, Hardwick, Head, Holbrook, Holloway, Hopkins Hughes, Isler, Kenton, Kidd, King, Kleier, LeMaster, Mann, Mason, May, Maynard, McBride, McGill, Morgan, Morris, Muncy, Nett, O'Brien, Overstreet, Pearl, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Robinson, Romines, Sale, Schmidt, Siler, Stephens, Stewart, Tobin, Thomas, J. Turner, R. Turner, Vincent, Wells, White, Wible, Wooden, Wright,. Nays 8-J. Allen, W. Allen, Brown, Clarke, Deskins, Freeman, Imes, Litttle.

HB 466, as amended, was passed and the title agreed to.

Representative Bendl moved that the vote by which **HB 466** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Report on Enrolled Bills

The Committee on Enrollment reported **SB 21, HB 99,** and **HB 233** had been examined and found correctly enrolled. **SB 21, HB 99,** and **HB 233** read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate.

HB 99 and **HB 233** delivered to the Senate, signed by President. Ordered delivered to the Governor.

Orders of the Day

Representative B. Richardson moved that consideration of **HB 251** be deferred and that it retain its position in Orders of the Day. Agreed.

HB 285 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Brown moved that **HB 285** be passed.

On the roll call the vote was yeas 85-Ackerson, B. Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Bevins, Blair, Blandford, Blume, Blythe, Boatwright, Brinkley, Brown, Bruce, Burnette, Carpenter, Cooper, Craddock, Cyrus, DeFalaise, DeMarcus, Denham, Deskins, Dietz, Donnermeyer, Doss, Dunn, Floyd, Foster, Freeman, Gray, Guenthner, Hancock, Hardwick, Head, Holbrook, Holloway, Hopkins, Hughes, Imes, Isler, Jones, Kidd, King, Kleier, LeMaster, Lindsay, Little, Mann, May, McBee, McBride, McGill, Morgan, Morris, Muncy, Nett, O'Brien, Overstreet, Pearl, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Robinson, Romines, Sale, Schmidt, Siler, Stephens, Stewart, Tobin, Thomas, J. Turner, R. Turner, Vincent, Wells, White, Wible, Wooden, Wright, Yates. Nays 1-Fitzgerald.

HB 285 was passed and the title agreed to.

Representative Brown moved that the vote by which **HB 285** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 325 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Beshear moved that **HB 325** be passed.

On the roll call the vote was yeas 85-Ackerson, B. Adams, J. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blandford, Blume, Blythe, Boatwright, Brinkley, Bruce, Burnette, Carpenter, Clarke, Cooper, Cyrus, DeFalaise, DeMarcus, Denham, Deskins, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Floyd, Foster, Gray, Guenthner, Hancock, Hardwick, Head, Holbrook, Holloway, Hopkins, Hughes. Imes, Isler, Jones, Kenton, Kidd, King, Kleier, LeMaster, Lindsay, Mann, Mason, May, Maynard, McBee, McBride, McGill, Morgan, Morris, Muncy, Nett, O'Brien, Overstreet, Pearl, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Robinson, Romines, Sale, Schmidt, Siler, Stephens, Stewart, Tobin, Thomas, J. Turner, R. Turner, Vincent, White, Wible, Wooden, Wright, Yates. Nays 0.

HB 325 was passed and the title agreed to.

Representative Beshear moved that the vote by which **HB 325** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 346 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Cyrus moved that **HB 346** be passed.

On the roll call the vote was yeas 64-Ackerson, B. Adams, J. Allen, W. Allen, Bendl, Bennett, Benson, Blandford, Blume, Boatwright, Brinkley, Brown, Burnette, Carpenter, Cyrus, Dawahare, Deskins, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Floyd, Foster, Freeman, Gray, Guenthner, Hardwick, Head, Hughes, Imes, Isler, Kenton, Kidd, King, Kleier, LeMaster, Lindsay, Little, Mason, May, McBee, McBride, McGill, Muncy, O'Brien, Overstreet, Pearl, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Robinson, Romines, Schmidt, Stephens, Tobin, R. Turner, Vincent, Wible, Wooden, Wright, Yates. Nays 13-Beshear, Blair, Blythe, Bruce, Clarke, DeMarcus, Denham, Holbrook, Holloway, Hopkins, Stewart, J. Turner, White.

HB 346 was passed and the title agreed to.

Representative Cyrus moved that the vote by which **HB 346** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 362 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Blandford moved that **HB 362** be passed.

On the roll call the vote was yeas 88-Ackerson, B. Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Beshear, Blair, Blandford, Blume, Blythe, Boatwright, Brinkley, Brown, Bruce, Burnette, Carpenter, Clarke, Cooper, Craddock, Cyrus, Dawahare, DeFalaise, DeMarcus, Denham, Deskins, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Floyd, Foster, Freeman, Gray, Guenthner, Hancock, Hardwick, Head, Holbrook, Holloway, Hopkins, Hughes, Hurst, Imes, Isler, Jones, Kenton, Kidd, King, Kleier, LeMaster, Lindsay, Little, Mann, Mason, May, McBee, McBride, McGill, Morgan, Morris, Muncy, Nett, O'Brien, Overstreet, Pearl, Priddy, Rattliff, Richards, B. Richardson, Robinson, Romines, Sale, Schmidt, Siler, Stephens, Stewart, Tobin, Thomas, R. Turner, Vincent, White, Wible, Wooden, Wright, Yates. Nays 0.

HB 362 was passed and the title agreed to.

Representative Blandford moved that the vote by which **HB 362** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative B. Richardson moved that consideration of **HB 370** and HB 407 be deferred and that they retain their position in Orders of the Day. Agreed.

HB 431, with Committee Substitute attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Wible moved the adoption of the Committee Substitute for **HB 431**. Agreed.

Representative Wible moved that **HB 431,** by way of Committee Substitute, be passed.

On the roll call the vote was yeas 80-Ackerson, B. Adams, J. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blandford, Blume, Boatwright, Brinkley, Brown, Bruce, Burnette, Carpenter, Clarke, Craddock, Cyrus, Dawahare, DeFalaise, Denham, Deskins, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Floyd, Foster, Gray, Guenthner, Hancock, Hardwick, Head, Holbrook, Hopkins, Hughes, Isler, Jones, Kenton, Kidd, King, Kleier, LeMaster, Lindsay, Little, Mann, Mason, McBee, McBride, McGill, Morgan, Morris, Muncy, Nett, O'Brien, Overstreet, Pearl, Priddy, Richards, B. Richardson, P. Richardson, Robinson, Romines, Sale, Schmidt, Siler, Stewart, Tobin, Thomas, R. Turner, Vincent, Wells, White, Wible, Wooden, Yates. Nays 1-W. Allen.

HB 431, by way of Committee Substitute, was passed and the title agreed to.

Representative Wible moved that the vote by which **HB 431,** by way of Committee Substitute, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 438, with Committee Substitute attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Wible moved the adoption of the Committee Substitute for **HB 438.** Agreed.

Representative Wible moved that **HB 438,** by way of Committee Substitute, be passed.

On the roll call the vote was yeas 83-Ackerson, B. Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blandford, Blume, Blythe, Boatwright, Brinkley, Brown, Burnette, Clarke, Cooper, Craddock, Cyrus, Dawahare, DeFalaise, DeMarcus, Denham, Deskins, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Floyd, Foster, Freeman, Gray, Guenthner, Hancock, Hardwick, Head, Holbrook, Holloway, Hopkins, Hughes, Isler, Jones, Kenton, Kidd, King, Kleier, LeMaster, Lindsay, Little, Mann, Mason, McBee, McBride, McGill, Morgan, Muncy, Nett, Overstreet, Pearl, Priddy, Richards, B. Richardson, P. Richardson, Robinson, Sale, Schmidt, Siler, Stephens, Stewart, Tobin, Thomas, R. Turner, Vincent, Wells, White, Wible, Wooden, Wright, Yates. Nays 0.

HB 438, by way of Committee Substitute, was passed and the title agreed to.

Representative Wible moved that the vote by which **HB 438,** by way of Committee Substitute, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative B. Richardson moved that consideration of **HB 479** be deferred and that it retain its position in Orders of the Day. Agreed.

HB 496 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Pearl moved that **HB 496** be passed.

On the roll call the vote was yeas 72-B. Adams, J. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blandford, Blume, Blythe, Boatwright, Brinkley, Brown, Bruce, Burnette, Carpenter, Clarke, Craddock, Cyrus, DeFalaise, Deskins, Donnermeyer, Dunn, Fitzgerald, Floyd, Foster, Gray, Hancock, Hardwick, Head, Holbrook, Hopkins, Hughes, Isler, Jones, Kenton, Kidd, King, Kleier, LeMaster, Lindsay, Little, Mann, Mason, McBee, McBride, Morgan, Morris, Muncy, Nett, Overstreet, Pearl, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Romines, Sale, Schmidt, Siler, Stephens, Stewart, Tobin, Vincent, Wells, White, Wible, Wooden, Wright, Yates. Nays 10-Ackerson, Blair, DeMarcus, Denham, Doss, Guenthner, Holloway, Imes, Robinson, R. Turner.

HB 496 was passed and the title agreed to.

Representative Pearl moved that the vote by which **HB 496** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative B. Richardson moved that the rules be suspended for Introduction of Bills and Resolutions and Posting of Bills and Resolutions for Consideration. Agreed.

Introduction of Bills and Resolution

HB 721, by Representatives Ackerson and Brinkley: AN ACT relating to the registration of motor vehicles.

HB 722, by Representatives Holbrook and Lindsay: AN ACT relating to conveyancing.

HB 723, by Representative Hancock: AN ACT relating to salaries of state officers and employes.

HB 724, by Representatives Richards and B. Adams: AN ACT relating to controlled substances.

Posting of Bills and Resolutions for Consideration

The Clerk announced the folloiwng Bills and Resolutions have been posted for Committee consideration:

Education: **HB 582, HJR 25, HB 590, HB 616, HB 597, HB 666.**

Health and Welfare: **HR 2, HB 577.**

Public Utilities and Transportation: **HB 471, HB 560, HB 567, HB 572, HB 573.**

Announcements

The following members filed Floor Amendments to Bills and Resolutions: Representative Holbrook, Floor Amendment No. 1 to **HB 161;** Representative Lindsay, Floor Amendment No. 1 to **HB 407;** Representative Romines, Floor Amendment No. 3 to **HB 168;** Representatives Morris and Imes, Floor Amendment No. 2 to SB 91; Representative Blandford, Floor Title Amendment to **HB 1.**

The following members requested that they be recorded as voting as follows: Representative Morris, "nay" on **HB 346;** Representative Jones, "yea" on HB 466; Representative Mann, "yea" on **HB 346;** Representative O'Brien, "yea" on **HB 438,** "yea" on **HB 496.**

The following members filed requests with the Clerk to have their names added as co-sponsors of Bills and Resolutions: Representative Richards, **HB 615;** Representative Ackerson, **HB 515;** Representatives Kleier, Mann, Bendl, Wible, Maynard, Priddy, Gray, Yates, Blume, Bennett, Nett, Wooden, Blythe, and Kidd, **HB 407.**

Adjournment

Representative B. Richardson moved that the House adjourn until 10:00 a.m., Friday, February 27, 1976.

On the roll call the vote was yeas 37-B. Adams, Bendl, Beshear, Bevins, Blume, Blythe, Boatwright, Brown, Carpenter, Craddock, Cyrus, DeFalaise, Donnermeyer, Dunn, Foster, Head, Holbrook, Hughes, Isler, Jones, Kenton, Kleier, LeMaster, Mason, McBee, McBride, McGill, Morris, Nett, Robinson, Sale, Schmidt, Tobin, R. Turner, Vincent, White, Wright. Nays 10-Blandford, Doss, Fitzgerald, Gray, Guenthner, Imes, Mann, Priddy, Richards, B. Richardson.

The motion to adjourn was adopted.

FRIDAY, FEBRUARY 27, 1976

FORTY-FIRST LEGISLATIVE DAY

The House was called to order by Speaker Kenton.

Prayer by Father Henry C. Stucker, St. Simon and Jude Church, Louisville.

The roll was called. All present except Representatives Cooper and Siemens.

Representative Isler moved that absent members be granted leave of absence in accordance with the prevailing rules of the House. Agreed.

Representative Hughes moved that the reading of the Journal of February 26, 1976, be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HB 725, by Representative Hughes: AN ACT relating to rabies vaccine.

HB 726, by Representatives LeMaster, Beshear, and Benson: AN ACT relating to elections.

HB 727, by Representative Gray: AN ACT relating to workmen's compensation.

HB 728, by Representative Hancock: AN ACT relating to traffic regulations.

HB 729, by Representative Gay: AN ACT relating to regulation of electricians.

HB 730, by Representatives Carpenter, Overstreet, Brown and Gray: AN ACT relating to sales tax exemption for aged, blind, and disabled persons.

HB 731, by Representatives Wible and B. Richardson: AN ACT relating to the Court of Justice.

Senate Message

Announcing passage of **HB 336, HR 37, SB 25, SB 211, SB 243, SB 213,** SR 22, **SB 171, SB 214, SB 193, SB 145,** and **SB 32.**

Reference of Bills and Resolutions

The Clerk announced the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **HB 703, HB 704, HB 711, HB 713, HR 70, HR 73.**

Banking and Insurance: **HB 721, SB 169, SB 112.**

Business Organizations and Professions: **HB 720.**

Cities: **HB 702, HB 716, HB 719.**

Education: **HB 705, HB 710, HJR 71.**

Health and Welfare: **HB 709, HB 715, HB 717, SB 166, SR 25.**

Judiciary-Statutes: **HB 701, HB 708, HB 714, HB 722, HB 724, SB 23.**

Public Utilities and Transportation: **HB 706, HB 718, SB 96.**

State Government: **HB 707, HB 712, HB 723.**

Report of Committees

The Committee on Appropriations and Revenue reported **HB 11** with Committee Amendment attached thereto, **HB 447, HB 455, HB 517, HB 549, HB 558** with Committee Amendments attached thereto, **HB 563, HB 569, SB 28, SB 99,** SB 119, **SB 141, SB 167,** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 11, AN ACT relating to state purchasing.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 45.390 is amended to read as follows:

(1) All persons, firms, or corporations who desire to bid on and furnish any of the materials, supplies, or equipment usually purchased by the executive department for finance and administration may at any time file with the department its or their name or names; together with the character and kind of such materials, supplies, and equipment which it or they may desire to bid on and furnish, and such names shall be placed on the list of bidders applicable to such commodities as they desire to bid on and furnish. For identification purposes, the executive department for finance and administration may use any code system to identify prospective bidders which the executive department for finance and administration finds is necessary and in the best interest of the commonwealth of Kentucky. Prior to such listing, however, the commissioner of the executive department for finance and administration shall verify the qualifications of prospective bidders in terms of:

(a) Ability, capacity, and skill of the bidder to perform on a timely basis under contract for goods and services which he desires to bid on and furnish;

(b) Character, integrity, reputation, and experience of the bidder;

(c) Performance in previous dealings with the commonwealth of Kentucky and other governmental agencies or private business concerns; and

(d) Compliance with the health rules and regulations of the commonwealth of Kentucky.

(2) Subject to the right of appeal by the prospective bidder to the commissioner of the executive department for finance and administration, the commissioner may remove any bidder for any one (1) of the following reasons:

(a) Failure to meet minimum qualifications;

(b) Failure to post bid or performance bonds as the commissioner of the executive department for finance and administration may require either at the time of submission of bids or prior to award of contract;

(c) Substitution of commodities or equipment without approval in writing from the executive department for finance and administration;

(d) Failure to meet delivery conditions specified in the bid;

(e) Failure to replace inferior or defective materials, equipment, or supplies immediately;

(f) Failure to respond to three (3) invitations received;

(g) Falsifying invoices;

(h) Collusion or collaboration on commonwealth invitations to bid;

(i) Falsifying information on the "Application to be Placed on Vendor's List";

(j) Refusal to accept a contract award as provided in the bid;

(k) Failure to submit the Kentucky sales-use tax reports or failure to remit sales-use or income taxes assessed by the department of revenue.

(3) The executive department for finance and administration and using agencies shall employ the lists of bidders and other sources of information in such a way as to foster the highest level of sound competition when invitations to bid are issued as required by this section. In the event that there are more than ten (10) bidders on the list applicable to a given commodity, at least ten (10) of those listed shall be issued invitations when competitive bidding is required by this section in the purchase of said commodity, and any additional qualified bidders, whether or not they were issued invitations, may request invitations and shall be afforded the opportunity to submit a bid. In addition, the division shall solicit bids by publication in two (2) newspapers of general circulation in the state to be determined and designated by the commissioner of the executive department for finance and administration. The notice to be published shall contain a general description

items to be purchased or sold; the date, time and location on and at which bids will be opened; and the location from which the list of items, terms, and specifications can be obtained. For purposes of advertising in newspapers, a detailed listing of items shall not be necessary.

(4) The executive department for finance and administration shall require the formal invitation of sealed written bids on all purchases, except as provided in KRS 42.061, 45.360, and 45.400, for which the gross amount is estimated to exceed *five thousand dollars ($5,000)* [one thousand dollars ($1,000)] for building renovation and repair (inclusive projects) or *two thousand five hundred dollars ($2,500)* [$500] for other transactions. The department shall designate by regulation the manner, which manner may include the taking of sealed competitive bids, in which all purchases less than these amounts shall be made. In all cases where the department requires competitive quotations, a record shall be kept of all quotations solicited and received.

(5) An agency shall not split or parcel purchases over a period of time for the purpose of evading competitive bidding. In any case in which purchases are so split or parceled, the agency head shall be personally liable for the amount by which the total amount purchased exceeds the amount authorized to be purchased.

(6) For any purchase in which the estimated price exceeds *five thousand dollars ($5,000)* [two thousand dollars ($2,000)], invitations to bid shall be postmarked at least fourteen (14) days before the day set for opening. For any purchase in which the estimated price does not exceed *five thousand dollars ($5,000)* [two thousand dollars ($2,000)], invitations to bid shall be postmarked at least seven (7) days before the day set for opening. Said invitations shall state the time and place of receiving and opening of bids and any other information the department deems in the best interest of the state. Wherever possible items should be described by standard specifications. All said bids shall be made in writing and sealed and shall be opened and read publicly at the stated time. After due consideration and a reasonable time the department shall award the contract to the lowest qualified bidder, unless in the discretion of the said division no satisfactory bid had been received, in which event all bids may be rejected and new bids requested as provided by this section. Time discounts shall not be considered, except where fair trade commodities are involved.

The Committee Amendment to **HB 11** is as follows:

Amend printed copy of House Bill 11 page 4, lines 18 and 19 by deleting the words "*two thousand five hundred dollars ($2500)*" and inserting in lieu thereof the words "*one thousand dollars ($1000)*".

HB 447, AN ACT relating to taxation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 139.480 is amended to read as follows:

Any other provision of this chapter to the contrary notwithstanding, the terms "sale at retail," "retail sale," "use," "storage," and "consumption," as used in this chapter do not include the sale, use, storage, or other consumption of:

(1) Locomotives or rolling stock, including materials for the construction, repair, or modification thereof, or fuel or supplies for the direct operation of locomotives and trains, used or to be used in interstate commerce;

(2) Coal for the manufacture of electricity;

(3) All energy or energy-producing fuels used in the course of manufacturing, processing, mining, or refining to the extent that the cost of the energy or energy-producing fuels used exceeds three per cent (3%) of the cost of production;

(4) Livestock of a kind the products of which ordinarily constitute food for human consumption provided the sales are made for breeding or dairy purposes and by or to a person regularly engaged in the business of farming;

(5) Poultry for use in breeding or egg production;

(6) Farm work stock for use in farming operations;

(7) Seeds, the products of which ordinarily constitute food for human consumption or are to be sold in the regular course of business, feed for livestock or poultry of a kind the products of which ordinarily constitute food for human consumption, and commercial fertilizer to be applied on land the products from which are to be used for food for human consumption or are to be sold in the regular course of business; Provided such sales are made to farmers who are regularly engaged in the occupation of tilling and cultivating the soil for the production of crops as a business, or who are regularly engaged in the occupation of raising and feeding livestock or poultry or producing milk for sale; and Provided further That such tangible personal property so sold is to be used only by those persons designated above who are so purchasing;

(8) Machinery for new and expanded industry;

(9) Farm machinery. As used in this section the term "farm machinery" means machinery used exclusively and directly in the occupation of tilling the soil for the production of crops as a business, or in the occupation of raising and feeding livestock or poultry or of producing milk for sale. The term "farm machinery" as used in this section includes machinery, attachments, and replacements therefor which are used or manufactured for use on, or in the operation of farm machinery and which are necessary to the operation of such machinery, and are customarily so used; but this exemption shall not include automobiles, trucks, trailers, and truck-trailer combinations; [.]

(10) Property which has been certified as a pollution control facility as defined in KRS 224.850; *and* [.]

(11) Tombstones and other memorial grave markers.

HB 455, AN ACT relating to revenue and taxation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 132.590 is amended to read as follows:

(1) The compensation of the property valuation administrator shall be in accordance with the provisions of *the following scale, which shall in all respects, be equivalent to the grade classification for state employes as established by the department of personnel and subject to the provisions of subsection (4) of this section:*

Assessed Value of Property of:		Grade
At Least	But Less Than	Classification
$5,000,000,000	-	22
2,000,000,000	$5,000,000,000	21
500,000,000	2,000,000,000	20
400,000,000	500,000,000	19
250,000,000	400,000,000	18
125,000,000	250,000,000	17
100,000,000	125,000,000	16
75,000,000	100,000,000	15
50,000,000	75,000,000	14
35,000,000	50,000,000	13
-	35,000,000	12

[subsection (5) of this section.] Should a property valuation administrator for any reason vacate the office in any year during his term of office, he shall be paid only for the calendar days actually served during the year.

(2) The grade classification system provided in subsection (1) shall be determined on the basis of the total assessment of property subject to state tax as certified by the department of revenue, including the amount of assessment on which taxes are deferred under the provisions of the agricultural and horticultural land act, except that the amount of assessment of livestock and farm machinery shall be excluded in determining the grade classification.

(3) The provisions of this section shall be computed on the 1976 assessment and on each annual assessment thereafter.

(4) Each property valuation administrator shall upon taking office for the first time be placed in the first step in grade and shall annually, effective January 1 after serving no less than twelve months, be advanced one step in grade; except; that any person appointed or elected to fill a vacancy in the office of property valuation administrator shall be eligible for advancement one step in grade effective January 1 following completion of at least six months service. The department of revenue is authorized to make grade classification changes corresponding to any approved for department employes in comparable positions so long as such changes do not violate the integrity of the classification system and, except further, subject to availability of funds, that the department may extend cost-of-living increases approved for department employes to the property valuation administrators by advancement in grade.

(5) Deputy property valuation administrators and other authorized personnel likewise may be advanced one step in grade upon completion of twelve months continuous service and given such other benefits relating to reclassification of position or cost-of-living adjustments as are provided in subsection (4) for property valuation administrators.

(6) [(2)] The property valuation administrator's office shall be allowed by the state as compensation for deputies, other authorized personnel, and for other authorized expenditures, one and one-quarter cents on each one hundred dollars of the property assessed, *including the amount of assessment on which taxes are deferred under the agricultural and horticultural land act but* exclusive of livestock and farm machinery, on the first

two hundred fifty million dollars and one cent on each one hundred dollars of the property assessed over two hundred fifty million dollars; but the total sum allowed *by the state to* any property valuation administrator's office as compensation for deputies, other authorized personnel, and for other authorized expenditures shall not exceed *the limits set forth in the following table:*

Assessed Value of Property of:		
At Least	But Less Than	Limit
-	$ 300,000,000	$ 35,000
$ 300,000,000	500,000,000	50,000
500,000,000	2,000,000,000	100,000
2,000,000,000	-	The amount fix by the Department of Revenue

[$35,000 in any county except in a county having an assessment in excess of three hundred million dollars which shall be governed by KRS 132.630;] *However* [however], each property valuation administrator's office shall be allowed *as a minimum such funds that are required to meet the federal minimum wage requirements for one full time deputy. Each property valuation administrator shall submit each biennium to the department of revenue a budget for his office which shall be based upon the state, county and city funds available to his office and show the amount to be expended for deputy and other authorized personnel including employer's share of FICA and state retirement, and other authorized expenses of the office.* [a minimum of three thousand six hundred dollars annually, including local contributions for the assessment, for the compensation of deputies, other authorized personnel, and for other authorized expenditures.] Each property valuation administrator may appoint any persons approved by the department of revenue to assist him in the discharge of his duties. Each deputy must be more than twenty-one years of age and may be removed at the pleasure of the property valuation administrator. The salaries of deputies and other authorized personnel shall be fixed by the property valuation administrator *in accordance with the grade classification system established by the department of revenue* and shall be subject to the approval of the department of revenue. *Any* [No] deputy property valuation administrator employed, or promoted to a higher position *may be examined* [shall be approved for compensation from any funds derived from any taxing jurisdiction or jurisdictions in excess of thirty-six hundred dollars in any one calendar year, without having qualified by examination, said examination to be prepared and administered] by the department of revenue in accordance with standards of the department of personnel, for the position to which he is being appointed or promoted. No state funds available to any property valuation administrator's office as compensation for deputies and other authorized personnel or for other authorized expenditures shall be paid without authorization of the department of revenue [,] prior to the employment by the property valuation administrator of deputies or other authorized personnel or the incurring of other authorized expenditures.

(7) [(3)] Each county fiscal court shall annually appropriate and pay each fiscal year to the office of the property valuation administrator as its cost for use of the assessment, as required by KRS 132.280 *an amount determined as follows:*

Assessment Subject to County Tax of:		
At Least	But Less than	Amount
-	$100,000,000	$.005 for each $100 the first $50,000,000 and $.002 for each $100 over $50,000,000.
$100,000,000	150,000,000	$.004 for each $100 the first $100,000,000 and $.002 for each $100 over $100,000,000.
150,000,000	300,000,000	$.004 for each $100 the first $150,000,000 and $.003 for each $100 over $150,000,000.
300,000,000	-	$.004 for each $100.

[, $250 for the first $1,000,000 of assessment and three-tenths of one cent for each one hundred dollars of assessment in excess of $1,000,000 exclusive of livestock and farm machinery; but]

(8) *The* [the] total sum to be paid by the fiscal court to any property valuation administrator's office *under the provisions of subsection (7) of this section* shall not exceed *the limits set forth in the following table:*

Assessed Value of Property Subject to
County Tax of:

At Least	But Less Than	Limit
-	$ 700,000,000	$ 25,00
$ 700,000,000	1,000,000,000	35,00
1,000,000,000	2,000,000,000	50,00
2,000,000,000	2,500,000,000	75,00
2,500,000,000	5,000,000,000	100,00
5,000,000,000	-	125,00

[$25,000 except in a county having an assessment in excess of $2,000,000,000 which shall be governed by KRS 132.630.] This allowance shall be based on the assessment as of the previous January 1 and shall be used for deputy and other personnel allowance, supplies, maps and equipment, travel allowance for the property valuation administrator and his deputies and other authorized personnel, and other authorized expenses of the office.

(9) [(4)] Each property valuation administrator shall at the end of each month file a claim with the fiscal court for the salaries of his deputies, other personnel, and other expenses of his office incurred during the month which are *payable* [reimbursable] from county funds. The court shall order payment made provided the total of all claims filed with the court does not exceed the total sum available under this section. [Copies of all claims filed under the provisions of this section and KRS 132.285(1)(c) shall be filed with the department of revenue.] The property valuation administrator shall maintain a payroll record of all employes compensated from local funds derived from any taxing jurisdiction, file such record with the department of revenue and pay all funds withheld from employes compensation for federal FICA taxes, federal income taxes, state income taxes, state employes retirement, and all other required deductions, by the fifth day following the end of each month. During county election years the property valuation administrator shall not be allowed to expend in excess of forty percent of the allowances available to his office from county funds during the first five months of the fiscal year in which the general election is held.

(10) Any county funds appropriated under the provisions of this section but unexpended by the close of each fiscal year for which such funds are appropriated shall carry over and be added to the amount required to be appropriated for the next fiscal year except that the department of revenue may release such funds or any part thereof that the department deems not necessary for operations of the property valuation administrator's office.

(11) The provisions of this Act shall apply to urban county governments. In an urban county government, all the rights and obligations conferred on fiscal courts by the provisions of this Act, shall be exercised by the urban county government.

(12) When an urban county form of government is established through merger of existing city and county governments as provided in KRS Chapter 67A, the annual county assessment shall presumed to have been adopted as if the city had exercised the option to adopt as provided in KRS 132.285, and the annual amount to be appropriated to the property valuation administrator's office shall be the combined amount that is required of the county under KRS 132.590 and that required of the city under KRS 132.285, except that the total shall not exceed one hundred thousand dollars ($100,000) for any urban county government with an assessment subject to county wide tax of less than three billion dollars ($3,000,000,000), one hundred twenty-five thousand dollars ($125,000) for an urban county government with an assessment subject to county wide tax between three billion dollars ($3,000,000,000) and five billion dollars ($5,000,000,000) and two hundred thousand dollars ($200,000) for an urban county government with an assessment subject to county wide tax in excess of five billion dollars ($5,000,000,000). For purposes of this subsection the amount to be considered as the assessment for purposes of KRS 132.285 shall be the amount subject to taxation for full urban services.

[(5) The annual compensation of the property valuation administrator shall be governed as follows:

(a) A county having an assessment in excess of $5,000,000,000 shall be classified in grade twenty-two of the state personnel system in effect January 1, 1974.

(b) A county having an assessment between $2,000,000,000 and $5,000,000,000 shall be classified in grade twenty-one of the state personnel classification system in effect January 1, 1974.

(c) A county having an assessment between $500,000,000 and $2,000,000,000 shall be classified in grade twenty of the state personnel classification system in effect January 1, 1974.

(d) A county having an assessment between $400,000,000 and $500,000,000 shall be classified in grade nineteen of the state personnel classification system in effect January 1, 1974.

(e) A county having an assessment between $250,000,000 and $400,000,000 shall be classified in grade eighteen of the state personnel classification system in effect January 1, 1974.

(f) A county having an assessment between $125,000,000 and $250,000,000 shall be classifield in grade seventeen of the state personnel classification system in effect January 1, 1974.

(g) A county having an assessment between $100,000,000 and $125,000,000 shall be classified in grade sixteen of the state personnel classification system in effect January 1, 1974.

(h) A county having an assessment between $75,000,000 and $100,000,000 shall be classified in grade fifteen of the state personnel classification system in effect January 1, 1974.

(i) A county having an assessment between $50,000,000 and $75,000,000 shall be classified in grade fourteen of the state personnel classification system in effect January 1, 1974.

(j) A county having an assessment between $35,000,000 and $50,000,000 shall be classified in grade thirteen of the state personnel classification system in effect January 1, 1974.

(k) A county having an assessment less than $35,000,000 shall be classified in grade twelve of the state personnel classification system in effect January 1, 1974.

(l) The grade classification shall be determined on the basis of the total assessment of property subject to state tax as certified by the department of revenue, except that the assessment of livestock and farm machinery shall be excluded in determining the grade classification.

(m) The provisions of this section shall be computed on the 1974 assessment and on each annual assessment thereafter.

(n) Property valuation administrators shall be advanced in grade in accordance with the rules and regulations of the department of personnel applicable to state employes.]

Section 2. KRS 132.630 is hereby repealed.

HB 517, AN ACT relating to revenue and taxation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

PART I

Section 1. KRS 141.020 is amended to read as follows:

(1) An annual tax shall be paid for each taxable year by every resident individual of this state upon his entire net income as defined in this chapter. The tax shall be determined by applying the rates in subsection (2) to net income and subtracting allowable tax credits provided in subsection (3).

(2) The following rates shall be applied to net income:

(a) Two percent of the amount of net income not exceeding three thousand dollars;

(b) Three percent of the amount of net income in excess of three thousand dollars but not in excess of four thousand dollars;

(c) Four percent of the amount of net income in excess of four thousand dollars but not in excess of five thousand dollars;

(d) Five percent of the amount of net income in excess of five thousand dollars but not in excess of eight thousand dollars;

(e) Six percent of the amount of net income in excess of eight thousand dollars.

(3) The following tax credits, when applicable, shall be deducted from the result obtained under subsection (2) to arrive at the annual tax;

(a) Twenty dollars for an unmarried individual;

(b) Twenty dollars for a married individual filing a separate return and an additional twenty dollars for the spouse of taxpayer if a separate return is made by the taxpayer and if the spouse, for the calendar year in which the taxable year of the taxpayer begins, had no Kentucky gross income and is not the dependent of another taxpayer; or forty dollars for married persons filing a joint return, provided neither spouse is the dependent of another taxpayer. The determination of marital status for the purpose of this section shall be made in the manner prescribed in section 153 of the Internal Revenue Code;

(c) Twenty dollars credit for each dependent. No credit shall be allowed for any dependent who has made a joint return with his spouse;

(d) An additional *forty* [twenty] dollars credit if the taxpayer has attained the age of sixty-five before the close of the taxable year;

(e) An additional *forty* [twenty] dollars credit for taxpayer's spouse if a separate return is made by the taxpayer and if the taxpayer's spouse has attained the age of sixty-five before the close of the taxable year, and, for the calendar year in which the taxable year of the taxpayer begins, has no Kentucky gross income and is not the dependent of another taxpayer;

(f) An additional *forty* [twenty] dollars credit if the taxpayer is blind at the close of the taxable year;

(g) An additional *forty* [twenty] dollars credit for taxpayer's spouse if a separate return is made by the taxpayer and if the taxpayer's spouse is blind, and, for the calendar year in which the taxable year of the taxpayer begins, has no Kentucky gross income and is not the dependent of another taxpayer;

(h) In the case of nonresidents, the tax credits allowable under this subsection shall be that proportion of those permitted therein that is represented by the ratio of the taxpayer's Kentucky adjusted gross income as determined by KRS 141.010 (10), without the adjustments contained in (a) and (b) of that subsection, to his adjusted gross income as defined in section 62 of the Internal Revenue Code. However, in the case of a married nonresident taxpayer with income from Kentucky sources, whose spouse has no income from Kentucky sources, the taxpayer shall determine allowable tax credit(s) by either:

1. the method contained above applied to his tax credit(s), excluding credits for a spouse and dependents, or

2. prorating his tax credit(s) plus the tax credits for his spouse and dependents by the ratio of his Kentucky adjusted gross income as determined by KRS 141.010 (10), without the adjustments contained in (a) and (b) of that subsection, to the total joint federal adjusted gross income of the taxpayer and his spouse;

(i) In the case of an individual who becomes a resident of Kentucky during the taxable year, the tax credits allowable under this subsection shall be that portion of those permitted therein that is represented by the ratio of the taxpayer's Kentucky adjusted gross income as determined by subsection (10) of KRS 141.010, without the adjustments contained in paragraphs (a) and (b) of that subsection, to his adjusted gross income as defined in section 62 of the Internal Revenue Code;

(j) In the case of a fiduciary, other than an estate, the allowable tax credit shall be two dollars;

(k) In the case of an estate, the allowable tax credit shall be twenty dollars;

(l) An additional twenty dollars credit if the taxpayer is a member of the Kentucky national guard at the close of the taxable year.

(4) An annual tax shall be paid for each taxable year as specified in this section upon the entire net income except as herein provided, from all tangible property located in this state, from all intangible property that has acquired a business situs in this state, and from business, trade, profession, occupation or other activities carried on in this state, by natural persons not residents of this state. A nonresident individual shall be taxable only upon the amount of income received by him from labor performed, business done or from other activities in this state, from tangible property located in this state, and from intangible property which has acquired a business situs in this state; provided, however, that the situs of intangible personal property shall be at the residence of the real or beneficial owner and not at the residence of a trustee having custody or possession thereof. The remainder of the income received by such nonresident shall be deemed nontaxable by this state.

(5) Subject to the provisions of KRS 141.081 [and KRS 141.082], any individual may elect to pay the annual tax imposed by *Section 2 of this Act* [KRS 141.025] in lieu of the tax levied under this section.

(6) An individual who becomes a resident of Kentucky during the taxable year is subject to taxation as prescribed in subsection (4) of this section prior to establishing such residence and as prescribed in subsection (1) of this section following the establishment of such residence.

(7) An individual who becomes a nonresident of Kentucky during the taxable year is subject to taxation, as prescribed in subsection (1) of this section, during that portion of the taxable year that he is a resident and, as prescribed in subsection (4) of this section, during that portion of the taxable year when he is a nonresident.

SECTION 2. A NEW SECTION OF THE KENTUCKY REVISED STATUTES IS CREATED TO READ AS FOLLOWS:

Any individual whose adjusted gross income for the taxable year for which the return is filed does not exceed eight thousand dollars ($8,000) may elect to compute his annual tax under this section. This annual tax shall be determined by deducting the tax credits authorized by KRS 141.020(3) from the amount indicated by the following table which gives effect to a standard deduction of five hundred dollars ($500):

OPTIONAL TABLE

If Adjusted Gross Income Is Over	But Not Over	Amount Shall Be
$ 500	$ 550	$ .50
550	600	1.50
600	650	2.50
650	700	3.50
700	750	4.50
750	800	5.50
800	850	6.50
850	900	7.50
900	950	8.50
950	1,000	9.50
1,000	1,050	10.50
1,050	1,100	11.50
1,100	1,150	12.50
1,150	1,200	13.50
1,200	1,250	14.50

1,250	1,300	15.50
1,300	1,350	16.50
1,350	1,400	17.50
1,400	1,450	18.50
1,450	1,500	19.50
1,500	1,550	20.50
1,550	1,600	21.50
1,600	1,650	22.50
1,650	1,700	23.50
1,700	1,750	24.50
1,750	1,800	25.50
1,800	1,850	26.50
1,850	1,900	27.50
1,900	1,950	28.50
1,950	2,000	29.50
2,000	2,050	30.50
2,050	2,100	31.50
2,100	2,150	32.50
2,150	2,200	33.50
2,200	2,250	34.50
2,250	2,300	35.50
2,300	2,350	36.50
2,350	2,400	37.50
2,400	2,450	38.50
2,450	2,500	39.50
2,500	2,550	40.50
2,550	2,600	41.50
2,600	2,650	42.50
2,650	2,700	43.50
2,700	2,750	44.50
2,750	2,800	45.50
2,800	2,850	46.50
2,850	2,900	47.50
2,900	2,950	48.50
2,950	3,000	49.50
3,000	3,050	50.50
3,050	3,100	51.50
3,100	3,150	52.50
3,150	3,200	53.50
3,200	3,250	54.50
3,250	3,300	55.50
3,300	3,350	56.50
3,350	3,400	57.50
3,400	3,450	58.50
3,450	3,500	59.50
3,500	3,550	60.75
3,550	3,600	62.25
3,600	3,650	63.75
3,650	3,700	65.25
3,700	3,750	66.75
3,750	3,800	68.25
3,800	3,850	69.75
3,850	3,900	71.25
3,900	3,950	72.75
3,950	4,000	74.25
4,000	4,050	75.75
4,050	4,100	77.25
4,100	4,150	78.75
4,150	4,200	80.25
4,200	4,250	81.75
4,250	4,300	83.25

4,300	4,350	84.75
4,350	4,400	86.25
4,400	4,450	87.75
4,450	4,500	89.25
4,500	4,550	91.00
4,550	4,600	93.00
4,600	4,650	95.00
4,650	4,700	97.00
4,700	4,750	99.00
4,750	4,800	101.00
4,800	4,850	103.00
4,850	4,900	105.00
4,900	4,950	107.00
4,950	5,000	109.00
5,000	5,050	111.00
5,050	5,100	113.00
5,100	5,150	115.00
5,150	5,200	117.00
5,200	5,250	119.00
5,250	5,300	121.00
5,300	5,350	123.00
5,350	5,400	125.00
5,400	5,450	127.00
5,450	5,500	129.00
5,500	5,550	131.25
5,550	5,600	133.75
5,600	5,650	136.25
5,650	5,700	138.75
5,700	5,750	141.25
5,750	5,800	143.75
5,800	5,850	146.25
5,850	5,900	148.75
5,900	5,950	151.25
5,950	6,000	153.75
6,000	6,050	156.25
6,050	6,100	158.75
6,100	6,150	161.25
6,150	6,200	163.75
6,200	6,250	166.25
6,250	6,300	168.75
6,300	6,350	171.25
6,350	6,400	173.75
6,400	6,450	176.25
6,450	6,500	178.75
6,500	6,550	181.25
6,550	6,600	183.75
6,600	6,650	186.25
6,650	6,700	188.75
6,700	6,750	191.25
6,750	6,800	193.75
6,800	6,850	196.25
6,850	6,900	198.75
6,900	6,950	201.25
6,950	7,000	203.75
7,000	7,050	206.25
7,050	7,100	208.75
7,100	7,150	211.25
7,150	7,200	213.75
7,200	7,250	216.25
7,250	7,300	218.75
7,300	7,350	221.25

7,350	7,400	223.75
7,400	7,450	226.25
7,450	7,500	228.75
7,500	7,550	231.25
7,550,	7,600	233.75
7,600	7,650	236.25
7,650	7,700	238.75
7,700	7,750	241.25
7,750	7,800	243.75
7,800	7,850	246.25
7,850	7,900	248.75
7,900	7,950	251.25
7,950	8,000	253.75

Section 3. KRS 141.081 is amended to read as follows:

(1) An individual, at his election, may deduct from his adjusted gross income a standard deduction *of five hundred dollars ($500).* [as follows:

(a) If his adjusted gross income is eight thousand dollars ($8,000) or more, the standard deduction shall be five hundred dollars ($500);

(b) If his adjusted gross income is less than eight thousand dollars ($8,000), the standard deduction shall be the amount as allowed by the application of the optional table contained in KRS 141.025.]

(2) The standard deduction provided for in this section shall be in lieu of all deductions and shall not be allowed in the case of a taxable year of less than twelve (12) months on account of a change in the accounting period or in the case of a fiduciary.

(3) In the case of a husband and wife living together, the standard deduction provided for in this section shall not be allowed to either if the net income of one of the spouses is determined without regard to the standard deduction. The determination of marital status shall be made in the manner prescribed in Section 153 of the Internal Revenue Code.

Section 4. KRS 141.180 is amended to read as follows:

(1) Every individual, except as otherwise provided in this section, having for the taxable year *an adjusted gross* [a net] income *which exceeds* [of] *fifteen hundred dollars ($1,500)* [one thousand dollars ($1,000) or over or a gross income of twelve hundred dollars ($1,200) or over,] if single, or if married and not living with husband or wife and every married individual living with husband or wife whose *adjusted gross* [net] income combined with the *adjusted gross* [net] income of his or her spouse exceeds *twenty-five hundred dollars ($2,500)* [two thousand dollars ($2,000), or whose gross income combined with the gross income of his or her spouse exceeds twenty-five hundred dollars ($2,500),] shall make to the department a return stating specifically the items which he claims as deductions and tax credits allowed by this chapter.

(2) Any individual who is blind or who has attained the age of sixty-five (65) before the close of his taxable year [or who qualified as a head of household] shall be required to make a return only if he has for the taxable year *an adjusted gross* [a net] income which exceeds *thirty-five hundred dollars ($3,500)* [two thousand dollars ($2,000) or a gross income which exceeds twenty-five hundred dollars ($2,500)]. *Every married individual living with husband or wife shall, if both spouses have attained the age of sixty-five (65), be required to make a return if the combined adjusted gross income of both spouses exceeds five thousand two hundred and fifty dollars ($5,250).* If the individual is unable to make his own return, the return shall be made by a duly authorized agent.

(3) Any individual, who is both sixty-five (65) or over and blind before the close of the taxable year, shall make a return if he has for the taxable year an adjusted gross income which exceeds four thousand seven hundred and fifty dollars ($4,750).

(4) Notwithstanding any other provision of this section, an individual, having for the taxable year gross income from self-employment of fifteen hundred dollars ($1,500) or more, shall make a return.

(5) Any nonresident individual with gross income from Kentucky sources and a total gross income of fifteen hundred dollars ($1,500) or over shall make a return.

(6) [(2)] A husband and wife not living together shall make separate returns. A husband and wife living together may make a joint return, or may make separate returns.

(7) [(3)] An optional return properly filed under the provisions of *Section 2 of this Part* [KRS 141.025] shall be deemed sufficient to satisfy the provisions of this section.

(8) [(4)] Each individual return shall be verified by a written declaration that it is made under the penalties of perjury.

Section 5. KRS 141.190 is amended to read as follows:

(1) Every fiduciary, except a receiver appointed by authority of law in possession of part only of the property of an individual, shall make under oath a return for any of the following individuals, estates, or trusts for which he acts, setting forth therein such information as may be prescribed by the department:

(a) Every individual having *an adjusted* [a] gross income for the taxable year *which exceeds* [of] *fifteen hundred dollars ($1,500)* [twelve hundred dollars ($1,200) or over];

(b) Every estate the gross income of which for the taxable year is twelve hundred dollars ($1,200) or over;

(c) Every trust the gross income of which for the taxable year is one hundred dollars ($100) or over.

(2) Any fiduciary required to make a return under this chapter shall be subject to all the provisions of this chapter that apply to individuals.

Section 6. KRS 141.300 is amended to read as follows:

(1) Every individual shall, at the time prescribed in subsection (3), make a declaration of his estimated tax for the taxable year if his gross income from sources other than wages upon which Kentucky income tax will be withheld can reasonably be expected to exceed *two thousand dollars ($2,000)* [(one thousand dollars ($1,000)] for the taxable year and his gross income *or adjusted gross income* can reasonably be expected to be an amount not less than the amount for which a return is required under KRS 141.180.

(2) In the declaration required under subsection (1) the individual shall state:

(a) The amount which he estimates as the amount of tax under KRS 141.020 for the taxable year;

(b) The amount which he estimates as the credits for the taxable year under KRS 141.310 and KRS 141.315;

(c) The excess of the amount estimated under paragraph (a) over the amount estimated under paragraph (b), which excess for purposes of this chapter shall be considered the estimated tax for the taxable year;

(d) Such other information as may be prescribed in regulations promulgated by the department.

(e) Notwithstanding the above provisions, no declaration is required if the estimated tax can reasonably be expected to be less than $40.

(3) The declaration required under subsection (1) shall be filed with the department on or before April 15 of the taxable year, except that if the requirements of subsection (1) are first met:

(a) After April 1 and before July 2 of the taxable year, the declaration shall be filed on or before July 15 of the taxable year; or

(b) After July 1 and before November 2 of the taxable year, the declaration shall be filed on or before November 15 of the taxable year; or

(c) After November 1 of the taxable year, the declaration shall be filed on or before February 15 of the succeeding taxable year.

(4) An individual may make amendments of a declaration filed during the taxable year under subsection (3), under regulations prescribed by the department.

(5) If on or before February 15 of the succeeding taxable year the taxpayer files a return for the taxable year for which the declaration is required and pays in full the amount computed on the return as payable then, under regulations prescribed by the department:

(a) If the declaration is not required to be filed during the taxable year, but is required to be filed on or before such February 15, such return shall, for the purposes of this section, be considered as such declaration; and

(b) If the tax shown on the return, reduced by the credits under KRS 141.350, is greater than the estimated tax shown in a declaration previously made or, in the last amendment thereof, such return shall, for the purposes of this section, be considered as the amendment of the declaration permitted by subsection (4) to be filed on or before such February 15.

(6) The department shall promulgate regulations governing reasonable extensions of time for filing declarations and paying the estimated tax. Except in the case of taxpayers who are abroad, no such extension shall be for more than six (6) months.

(7) If the taxpayer is unable to make his own declaration, the declaration shall be made by a duly authorized agent or by the guardian or other person charged with the care of the person or property of such taxpayer.

(8) For the purposes of KRS 131.190, a declaration of estimated tax shall be held and considered a return of income under this chapter.

Section 7. KRS 141.025 and 141.082 are hereby repealed.

Section 8. The provisions of Part I of this Act shall apply to taxable years beginning after December 31. 1975.

PART II

Section 1. KRS 140.080 is amended to read as follows:

(1) There shall be free from any tax under the preceding provisions of this chapter the following inheritable interests:

(a) Surviving spouse, $20,000;

(b) Infant [(a) Wife, infant] child by blood or adoption, or a child by blood or a child adopted during infancy who has been declared incompetent by a court of competent jurisdiction, $10,000;

(c) [(b)] All other persons of Class A, under KRS 140.070, $5,000;

(d) [(c)] All persons of Class B, under KRS 140.070, $1,000; and

(e) [(d)] All persons of Class C, under KRS 140.070, $500.

(2) If the decedent was not a resident of this state, the exemption shall be the same proportion of the allowable exemption in the case of residents that the property taxable by this state bears to the whole property transferred by the decedent.

(3) The exemptions provided in this section shall be subtracted from the value of the respective distributive shares before the rates, provided in KRS 140.070, are applied thereto to determine the amount of tax due thereon.

Section 2. The effective date of Section 1 of this part shall be July 1, 1976.

PART III

Section 1. KRS 139.470 is amended to read as follows:

There are excluded from the computation of the amount of taxes imposed by this chapter:

(1) Gross receipts from the sale of, and the storage, use or other consumption in this state of, tangible personal property the gross receipts from the sale of which, or the storage use or other consumption of which, this state is prohibited from taxing under the constitution or laws of the United States, or under the constitution of this state;

(2) Gross receipts from sales of, and the storage, use or other consumption in this state of:

(a) Nonreturnable containers when sold without the contents to persons who place the contents in the container and sell the contents together with the container;

(b) Returnable containers when sold with the contents in connection with a retail sale of the contents or when resold for refilling;

As used in this section the term "returnable containers" means containers of a kind customarily returned by the buyer of the contents for reuse. All other containers are "nonreturnable containers";

(3) Gross receipts from the sale of, and the storage, use or other consumption in this state of, tangible personal property used for the performance of a lump sum, fixed fee contract of public works executed prior to February 5, 1960;

(4) Gross receipts from occasional sales of tangible personal property and the storage, use or other consumption in this state of tangible personal property, the transfer of which to the purchaser is an occasional sale;

(5) Gross receipts from sales of tangible personal property to a common carrier, shipped by the seller via the purchasing carrier under a bill of lading, whether the freight is paid in advance or the shipment is made freight charges collect, to a point outside this state and the property is actually transported to the out-of-state destination for use by the carrier in the conduct of its business as a common carrier*;* [.]

(6) Gross receipts from sales of tangible personal property made in one cent (1c) portions through vending machines*;* [.]

(7) Gross receipts from sales to any cabinet, department, bureau, commission, board, or other statutory or constitutional agency of the state and gross receipts from sales to counties, cities or special districts as defined in KRS 65.005. This exemption applies only to purchases of property or services for use solely in the government function. A purchaser not qualifying as a governmental agency or unit is not entitled to the exemption even though such purchaser may be the recipient of public funds or grants.

SECTION 2. A NEW SECTION OF KRS CHAPTER 139 IS CREATED TO READ AS FOLLOWS:

(1) The taxes imposed by this chapter shall apply to resident, nonprofit educational, charitable, and religious institutions as follows:

(a) Tax does not apply to sales of tangible personal property or services to such institutions provided the property or service is to be used solely within the educational, charitable, or religious function.

(b) Sales made by such institutions are taxable and the tax may be passed on to the customer as provided in KRS 139.210. However, where cafeterias or lunchrooms operated by educational institutions are not open to the public, tax does not apply to sales of food to students.

SECTION 3. A NEW SECTION OF KRS CHAPTER 139 IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding any other provisions of this chapter, the taxes imposed herein do not apply to the first $500 of sales made in any calendar year by individuals or nonprofit organizations not engaged in the business of selling. This exemption is limited to the following types of transactions or activities:

(a) Garage or yard sales of household items by an individual or family which are in no way associated with or related to the operation of a business;

(b) Fund raising events held by nonprofit civic, governmental, or other nonprofit organizations;

(2) The exemption does not apply to activities in which all or substantially all the household goods of a person are offered for sale or where nonprofit organizations conduct regular selling activities in competition with private business.

Section 4. Sections 1 and 3 of Part III of this Act shall become effective July 1, 1976.

Section 5. Whereas increasing costs due to inflation have placed many institutions in a difficult financial position, an emergency is declared to exist, and Section 2 of Part III of this Act shall become effective upon this Act's passage and approval by the Governor.

HB 549, AN ACT relating to revenue and taxation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 134.580 is amended to read as follows:

(1) When money has been paid into the state treasury in payment of any state taxes, except ad valorem taxes, whether payment was made voluntarily or involuntarily, the department of revenue shall authorize refunds or credits, to the person who paid the tax, or to his heirs, personal representatives or assigns, of any overpayment of tax and any payment where no tax was due. When a bona fide controversy exists between the department and the taxpayer as to the liability of the taxpayer for the payment of tax claimed to be due by the department, the taxpayer may pay the amount claimed by the department to be due, and if an appeal is taken by the taxpayer from the ruling of the department within the time provided by KRS 131.340 and it is finally adjudged that the taxpayer was not liable for the payment of the tax or any part thereof, the department shall authorize such refund or credit as the Kentucky board of tax appeals or courts may direct.

(2) In the event refunds or credits result from clerical error of the department or its agents, but not otherwise, refunds or credits shall be authorized with interest at the rate of *8* [6] per cent per annum. The refunds authorized by this section shall be made in the same manner as other claims on the state treasury are paid. They shall not be charged against any appropriation; but shall be deducted from tax receipts for the current fiscal year.

(3) Nothing in this section shall be construed to authorize the department to make or cause to be made any refund except within *four (4)* [two (2)] years from the date the money was paid into the state treasury. [Notwithstanding the foregoing limitation, in any case where money has been paid into the state treasury on or after January 1, 1966, the department may authorize a refund or credit of such money within four (4) years from the date the money was paid into the state treasury.] Nothing in this section shall be construed as requiring the department to authorize any refund or credit to a taxpayer without demand from the taxpayer, if in the opinion of the department the cost to the state of authorizing the refund or credit would be greater than the amount that should be refunded or credited.

(4) The terms "overpayment" and "payment where no tax was due" as used in this section shall be construed as referring to tax liability under the terms of the applicable statute without reference to the constitutionality of the statute. It is not intended that this section shall apply to any case wherein the statute may be held unconstitutional, either in whole or in part.

(5) In cases in which a statute has been held unconstitutional, taxes paid thereunder may be refunded to the extent provided by KRS 134.590, and by the statute held unconstitutional.

Section 2. KRS 138.140 is amended to read as follows:

(1) A tax shall be paid on the sale of cigarettes within the state at a proportionate rate of three cents(3¢) on each twenty (20) cigarettes. This tax shall be paid only once, regardless of the number of times the cigarettes may be sold in this state.

[(2) The burden of paying such tax shall be passed, through subsequent sales of the cigarettes taxed, to the ultimate purchasers and consumers of such cigarettes, and such tax so passed shall be deemed a direct tax paid by the said ultimate purchasers and consumers.]

Section 3. KRS 138.460 is amended to read as follows:

(1) On and after July 1, 1972 a tax levied upon its retail price at the rate of five percent shall be paid on the use in this state of every motor vehicle, except those exempted by KRS 138.470, at the time and in the manner provided in this section. In the case of trucks of gross weight in excess of ten thousand pounds (10,000 lbs.) the tax shall be levied upon ninety percent of the retail price of the vehicle.

(2) The tax shall be collected by the county court clerk or other officer with whom the vehicle is required to be registered:

(a) When he collects the registration fee for registering and licensing a motor vehicle the first time it is offered for registration in this state,

(b) Or upon the transfer of ownership of any motor vehicle previously registered in this state.

(3) The tax collected by the county clerk under this section shall be reported and remitted to the department of revenue on forms provided by the department. The county clerk shall for his services in collecting the tax be entitled to retain an amount equal to two percent of the tax collected and accounted for.

(4) No county clerk or other officer shall register or issue any license tags to the owner of any motor vehicle subject to this tax, when the vehicle is then being offered for registration for the first time, or transfer the ownership of any motor vehicle previously registered in this state, unless the owner or his agent pays the tax levied under this section in addition to the transfer, registration and license fees.

(5) When a resident of this state offers a motor vehicle for registration for the first time in this state which was registered in another state that levied a tax substantially identical to the tax levied under this section, such person shall be entitled to receive a credit against the tax imposed by this section equal to the amount of tax paid to the other state. No credit shall be given under this subsection for taxes paid in another state if that state does not grant similar credit for substantially identical taxes paid in this state.

(6) No county clerk or other officer shall register or issue any license tags to the owner of any motor vehicle subject to this tax, when the vehicle is then being offered for registration for the first time, unless the seller or his agent delivers to the county clerk or other officer a certified or photostat copy of the manufacturer's price label for passenger cars or a certified or photostat copy of the itemized billing to the customer in the case of all other motor vehicles; and the clerk shall attach the certified or photostat copy to the copy of the certificate of registration and ownership mailed to the department.

(7) When a manufacturer replaces for the original purchaser within ninety (90) days a new motor vehicle because of malfunction or defect, the purchaser shall be entitled to a refund of the amount of motor vehicle usage tax received by the Department of Revenue as a result of the first registration. No person shall be entitled to a refund unless he shall have filed with the Department of Revenue an affidavit from the manufacturer identifying the vehicle that was replaced and stating the date of replacement.

Section 4. KRS 138.470 is amended to read as follows:

There is expressly exempted from the tax imposed by KRS 138.460:

(1) Motor vehicles sold to the United States, or to the commonwealth of Kentucky or any of its political subdivisions;

(2) Motor vehicles sold to institutions of purely public charity and institutions of education not used or employed for gain by any person or corporation;

(3) Motor vehicles which have been previously registered *and* [or] titled in any state or by the federal government when being sold or transferred to licensed motor vehicle dealers for resale. Such motor vehicles shall not be leased, rented or loaned to any person and must be held for resale only;

[(4) Motor vehicles sold by or transferred from dealers registered and licensed in compliance with the provisions of KRS 186.070 and KRS 190.010 to 190.080 to nonresident members of the armed forces on duty in this commonwealth under orders from the United States government;]

(4) [(5)] Commercial motor vehicles, excluding passenger vehicles having a seating capacity for nine persons or less, owned by nonresident owners and used primarily in interstate commerce and based in a state other than Kentucky which are required to be registered in Kentucky by reason of operational requirements or fleet proration agreements and are registered pursuant to KRS 186.145;

(5) [(6)] Motor vehicles *previously registered in Kentucky,* transferred between husband and wife or parent and child;

(6) [(7)] Motor vehicles transferred when a business changes its name and no other transaction has taken place or an individual changes his or her name;

(7) [(8)] Motor vehicles transferred to a corporation from a proprietorship when the business is incorporated;

(8) [(9)] Motor vehicles transferred by will, court order, or under the statutes covering descent and distribution of property;

(9) [(10)] Motor vehicles transferred between a subsidiary corporation and its parent corporation when there is no consideration, or nominal consideration, or in sole consideration of the cancellation or surrender of

stock;

(10) [(11)] The interest of a partner in a motor vehicle when other interests are transferred to him.

(11) [(12)] Motor vehicles repossessed by a secured party who has filed a financing statement as required by KRS 186.045(2) and a repossession affidavit as required by KRS 186.045(6). The repossessor must hold the vehicle for resale only and not for personal use unless he has previously paid the motor vehicle usage tax on said vehicle.

(12) Motor vehicles transferred to an insurance company to settle a claim. Such vehicles shall be junked or held for resale only.

Section 5. KRS 136.070 is amended to read as follows:

(1) [With respect to taxable years beginning after December 31, 1965, every] *Every corporation organized under the laws of this state, every corporation having its commercial domicile in this state, and every foreign corporation owning or leasing property located in this state or having one or more individuals receiving compensation in this state, except state and national banks and trust companies, savings and loan associations organized under the laws of this state and under the laws of the United States and making loans to members only, production credit associations, insurance companies, including farmers' or other mutual hail, cyclone, windstorm or fire insurance companies, insurers and reciprocal underwriters, public service companies subject to taxation under KRS 136.120, those corporations exempted by Section 501 of the Internal Revenue Code,* and *any other* religious, educational, charitable *or* [and] like corporations not organized or conducted for pecuniary profit, shall pay to the state an annual license tax of seventy cents on each one thousand dollars of the capital employed in the business as computed under the provisions of subsections (2) and (3) of this section.

(2) *(a)* [The corporation shall determine its total capital, both within and without Kentucky.] The term "capital" as used in this section *means* [includes, but is not limited to,] capital stock, surplus, [monies borrowed for purposes other than current operating expenses and used in lieu of or in addition to invested capital and earned surplus,] advances by affiliated companies, intercompany accounts, *borrowed monies* or any other *accounts* [items] representing additional capital used and employed in the business. [The term "capital stock" as used in this section, shall be deemed to have such value as is reflected on the books of the corporation whether having par value or not.] *Accounts properly defined as "capital" in this section shall be reported at the value reflected on financial statements prepared for book purposes as of the last day of the calendar or fiscal year.*

(b) "Capital employed," in the case of corporations having property or payroll only in this state means "capital" as defined above.

(c) "Capital employed," in the case of corporations having property or payroll both within and without this state means "capital" as defined above and as apportioned under Section 3 of this section.

(d) Property means either real property or tangible personal property which is either owned or leased. Payroll means compensation, paid to one or more individuals, as described in subsection (3) of this section. Property and payroll are deemed to be entirely within this state if all other states are prohibited by Public Law 86-272, as it existed on December 31, 1975, from enforcing income tax jurisdiction.

(3) The total capital, as determined under subsection (2) of this section, shall be apportioned as follows:

(a) The total capital shall be multiplied by a fraction, the numerator of which is the property factor plus the payroll factor, plus the sales factor, and the denominator of which is three (3).

(b) The property factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property owned or rented and used in this state during the tax period and the denominator of which is the average value of all the taxpayer's real and tangible personal property owned or rented and used during the tax period; provided, however, that property which has been certified as a pollution control facility as defined in KRS 224.850 shall be excluded from the property factor.

1. Property owned by the taxpayer is valued at its original cost. If the original cost of any property is not determinable or is nominal or zero such property shall be valued by the department under regulations promulgated by the department. Property rented by the taxpayer is valued at eight (8) times the net annual rental rate. Net annual rental rate is the annual rental rate paid by the taxpayer less any annual rental rate received by the taxpayer from subrentals, provided that such rental and such subrentals are reasonable. If the department determines that the annual rental or subrental rate is unreasonable, or if nominal or zero rate is charged, the department may determine and apply such rental rate as will reasonably reflect the value of the property rented by the taxpayer.

2. The average value of property shall be determined by averaging the values at the beginning and ending of the tax period but the department may require the averaging of monthly values during the tax period if reasonably required to reflect properly the average value of the taxpayer's property.

(c) The payroll factor is a fraction, the numerator of which is the total amount paid or payable in this state during the tax period by the taxpayer for compensation, and the denominator of which is the total compensation paid or payable everywhere during the tax period. Compensation is paid or payable in this state if:

1. The individual's service is performed entirely within the state; or

2. The individual's service is performed both within and without the state, but the service performed without the state is incidental to the individual's service within the state; or

3. Some of the service is performed in the state and the base of operations or, if there is no base of operations, the place from which the service is directed or controlled is in the state, or the base of operations or the place from which the service is directed or controlled is not in any state in which some part of the service is performed, but the individual's residence is in this state.

(d) The sales factor is a fraction, the numerator of which is the total sales of the taxpayer in this state during the tax period, and the denominator of which is the total sales of the taxpayer everywhere during the tax period. Sales of tangible personal property are in this state if:

1. The property is delivered or shipped to a purchaser, other than the United States government, or to the designee of the purchaser within this state regardless of the f.o.b. point or other conditions of the sale; or

2. The property is shipped from an office, store, warehouse, factory, or other place of storage in this state and the purchaser is the United States government.

3. Sales, other than sales of tangible personal property, are in this state if the income-producing activity is performed in this state; or the income-producing activity is performed both in and outside this state and a greater proportion of the income-producing activity is performed in this state than in any other state, based on costs of performance.

(4) If the apportionment provisions of this section do not fairly measure the taxpayer's capital in this state, the taxpayer may petition for or the department may require:

(a) The exclusion of any one or more of the factors;

(b) The inclusion of one or more additional factors which will fairly measure the taxpayer's capital in this state; or

(c) The employment of any other method to produce an equitable apportionment of the taxpayer's capital.

(5) No corporation required to pay an annual license tax under this section shall pay less than ten dollars.

Section 6. KRS 136.990 is amended to read as follows:

(1) Any county clerk who fails to comply with the provisions of subsection (2) of KRS 136.020 shall be fined not less than ten dollars ($10.00) nor more than twenty-five dollars ($25.00).

(2) Any corporation that fails to pay its taxes, penalty and interest as provided in subsection (2) of KRS 136.050, after becoming delinquent, shall be fined fifty dollars ($50.00) for each day the same remains unpaid, to be recovered by indictment or civil action, of which the Franklin Circuit Court shall have jurisdiction.

(3) Any public service corporation, or officer thereof, that wilfully fails or refuses to make reports as required by KRS 136.130 and 136.140 shall be fined one thousand dollars ($1,000), and fifty dollars ($50.00) for each day the reports are not made after March 31 of each year.

(4) Any superintendent of schools or county clerk who fails to report as required by KRS 136.190, or who makes a false report, shall be fined not less than fifty dollars ($50.00) nor more than one hundred dollars ($100) for each offense.

(5) Any company or association that fails or refuses to return the statement or pay the taxes required by KRS 136.330 or 136.340 shall be fined one thousand dollars ($1,000) for each offense.

(6) Any insurance company that fails or refuses for thirty (30) days to return the statement required by KRS 136.330 or 136.340, under the oath of some principal officer or general agent or manager of this state, and to pay the tax required by KRS 136.330 or 136.340, shall forfeit one hundred dollars ($100) for each offense. The commissioner of insurance shall revoke the authority of the company or its agents to do business in this state, and shall publish the revocation pursuant to KRS chapter 424.

(7) Any person who violates subsection (3) of KRS 136.390 shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) for each offense.

(8) Where no other penalty is mentioned for failing to do an act required, or for doing an act forbidden, by this chapter, the penalty shall be not less than ten dollars ($10.00) nor more than five hundred dollars ($500).

(9) The Franklin Circuit Court shall have jurisdiction of all prosecutions under subsections (5) to (7), of this section.

(10) If any taxpayer fails to make or file a return as required by KRS 136.090 on or before the due date of the return, then, unless it is shown to the satisfaction of the department that the failure is due to reasonable cause, five per cent (5%) of the tax found to be due by the department shall be added to the tax for each thirty (30) days or fraction thereof elapsing between the due date of the return and the date on which it was filed, but the total penalty shall not exceed twenty-five per cent (25%) of the tax provided, however, that in no case shall a penalty be less than ten dollars ($10.00).

(11) If the tax imposed by KRS 136.070, whether assessed by the department or the taxpayer, or any instalment or portion of the tax, is not paid on or before the date prescribed for its payment, it shall be collected as a part of the tax, interest upon the nonpaid amount at the rate of *eight* [six] per cent *(8%)* [(6%)] per annum from the date prescribed for its payment until payment is actually made to the department. [If the assessment made by the department is not paid within the time prescribed, or protested in accordance with KRS 131.110, the taxpayer shall pay as a penalty, in addition to the amount of tax and other applicable penalties, one per cent (1%) of the tax for each month that the tax remains nonpaid.]

Section 7. KRS 141.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Commissioner" means the commissioner of revenue;

(2) "Department" means the department of revenue;

(3) "Internal Revenue Code" means the Internal Revenue Code in effect on December 31, *1975* [1973], exclusive of any amendments made subsequent to that date;

(4) "Dependent" means those persons defined as dependents in the Internal Revenue Code;

(5) "Fiduciary" means "fiduciary" as defined in Section 7701 (a) (6) of the Internal Revenue Code;

(6) "Fiscal year" means "fiscal year" as defined in Section 7701 (a) (24) of the Internal Revenue Code;

(7) "Individual" means a natural person;

(8) For taxable years beginning on or after January 1, 1974, "federal income tax" means the amount of federal income tax actually paid or accrued for the taxable year on taxable income as defined in Section 63 of the Internal Revenue Code, and taxed under the provisions of this chapter, minus any federal tax credits actually utilized by the taxpayer;

(9) "Gross income" in the case of taxpayers other than corporations means "gross income" as defined in Section 61 of the Internal Revenue Code and adjusted as follows:

(a) Exclude income that is exempt from state taxation by the Kentucky constitution and the constitution and statutory laws of the United States;

(b) Exclude undistributed income or any losses attributed to shareholders of a corporation which has elected to be taxed under Subchapter S of Chapter 1 of the Internal Revenue Code;

(c) Exclude income from supplemental annuities provided by the Railroad Retirement Act of 1937 as amended and which are subject to federal income tax by Public Law 89-699;

(d) Include interest income derived from obligations of sister states and political subdivisions thereof;

(10) "Adjusted gross income" in the case of taxpayers other than corporations means gross income as defined in subsection (9) of this section minus the deductions allowed individuals by Section 62 of the Internal Revenue Code and adjusted as follows, except that deductions shall be limited to amount allocable to income subject to taxation under the provisions of this chapter, and except that nothing in this chapter shall be construed to permit the same item to be deducted more than once:

(a) Include all overpayments of federal income tax refunded or credited to the taxpayer during the taxable year;

(b) Deduct federal income tax;

(11) "Net income" in the case of taxpayers other than corporations means adjusted gross income as defined in subsection (10) of this section minus the standard deduction allowed by KRS 141.081, or, at the option of the taxpayer, minus all the deductions allowed individuals by chapter 1 of the Internal Revenue Code except those listed below, except that deductions shall be limited to amounts allocable to income subject to taxation under the provisions of this chapter and that nothing in this chapter shall be construed to permit the same item to be deducted more than once:

(a) The net operating loss deduction allowed under section 172 of the Internal Revenue Code;

(b) Any deduction allowed by the Internal Revenue Code for state taxes measured by gross or net income, except that such taxes paid to foreign countries may be deducted;

(c) Any deduction allowed by the Internal Revenue Code for amounts allowable under KRS 140.090 (h) in calculating the value of the distributive shares of the estate of a decedent, unless there is filed with the income return a statement that such deduction has not been claimed under KRS 140.090 (h);

(d) The deduction for personal exemptions allowed under section 151 of the Internal Revenue Code and any other deductions in lieu thereof;

(12) "Gross income," in the case of corporations, means "gross income" as defined in section 61 of the Internal Revenue Code and adjusted as follows:

(a) Exclude income that is exempt from state taxation by the Kentucky constitution and the constitution and statutory laws of the United States;

(b) Exclude all dividend income received after December 31, 1969;

[(c) Include all overpayments of federal income tax refunded or credited to the taxpayer during the taxable year, other than such refunds or credits attributable to losses incurred prior to January 1, 1967. Notwithstanding the preceding provision, no federal income tax refund or credit shall be included for taxable years beginning after December 31, 1971. Any corporation whose taxable year begins in 1971 and ends in 1972 shall include all overpayments of federal income tax refunded or credited as follows:

1. Compute all overpayments of federal income tax refunded or credited during the entire taxable year, and

2. Multiply such overpayments of federal income tax refunded or credited by the ratio of the number of days of the taxable year in 1971 to the total number of days in the taxable year;]

(c) [(d)] Include interest income derived from obligations of sister states and political subdivisions thereof;

[(e) Exclude fifty percent (50%) of gross income derived from any disposal of coal covered by section 631(c) of the Internal Revenue Code if the corporation does not claim any deduction for percentage depletion, or for expenditures attributable to the making and administering of the contract under which such disposition occurs or to the preservation of the economic interests retained under such contract;]

(d) [(f)] Include in the gross income of lessors income tax payments made by lessees to lessors under the provisions of section 110 of the Internal Revenue Code, and exclude such payments from the gross income of lessees;

(e) [(g)] Include the amount calculated under KRS 141.205;

(f) [(h)] Ignore the provisions of section 281 of the Internal Revenue Code in computing gross income;

(13) "Net income," in the case of corporations, means "gross income" as defined in subsection (12) of this section minus all the deductions from gross income allowed corporations by Chapter 1 of the Internal Revenue Code, except the following:

(a) Any deduction for a state tax which is computed, in whole or in part, by reference to gross or net income and which is paid or accrued to any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or to any foreign country or political subdivision thereof;

(b) The deductions contained in sections 172, [176,] 242, 243, 244, 245, and 247 of the Internal Revenue Code;

(c) The provisions of section 281 of the Internal Revenue Code shall be ignored in computing net income;

(d) Any deduction directly or indirectly allocable to income which is either exempt from taxation or otherwise not taxed under the provisions of this chapter, and nothing in this chapter shall be construed to permit the same item to be deducted more than once;

(14) (a) "Taxable net income," in the case of corporations having *property or payroll* [income taxable] only in this state, means "net income" as defined in subsection (13) of this section [minus federal income tax as defined in subsection (8) of this section]; and

(b) "Taxable net income," in the case of corporations having *property or payroll* [income taxable] both within and without this state means "net income" as defined in subsection (13) of this section and as allocated and apportioned under KRS 141.120 [, minus federal income tax as defined in subsection (8) of this section];

[(c) Notwithstanding the above provisions, no federal income tax deduction shall be allowed for taxable years beginning after December 31, 1971. Any corporation whose taxable year begins in 1971 and ends in 1972 shall determine the federal income tax deduction as follows:

1. Compute a federal income tax deduction, on the basis of the entire taxable year, by the provisions of subsection (8) of this section, and

2. Multiply such federal income tax deduction by the ratio of the number of days of the taxable year in 1971 to the total number of days in the taxable year;]

(c) Property means either real property or tangible personal property which is either owned or leased. Payroll means compensation paid to one or more individuals, as described in KRS 141.120(8)(b). Property and payroll are deemed to be entirely within this state if all other states are prohibited by Public Law 86-272, as it existed on December 31, 1975, from enforcing income tax jurisdiction.

(15) "Person" means "person" as defined in section 7701(a)(1) of the Internal Revenue Code;

(16) "Taxable year" means the calendar year or fiscal year ending during such calendar year, upon the basis of which net income is computed and in the case of a return made for a fractional part of a year under the provisions of this chapter or under regulations prescribed by the commissioner, "taxable year" means the period for which such return is made;

(17) "Resident" means an individual domiciled within this state or an individual who is not domiciled in this state, but maintains a place of abode in this state and spends in the aggregate more than 183 days of the taxable year in this state;

(18) "Nonresident" means any individual not a resident of this state;

(19) "Employer" means "employer" as defined in section 3401(d) of the Internal Revenue Code;

(20) "Employe" means "employe" as defined in section 3401(c) of the Internal Revenue Code;

(21) "Number of withholding exemptions claimed" means the number of withholding exemptions claimed in a withholding exemption certificate in effect under KRS 141.325, except that if no such certificate is

in effect, the number of withholding exemptions claimed shall be considered to be zero;

(22) "Wages" means "wages" as defined in section 3401(a) of the Internal Revenue Code;

(23) "Payroll period" means "payroll period" as defined in Section 3401(b) of the Internal Revenue Code;

(24) "Corporations" means "corporations" as defined in section 7701(a)(3) of the Internal Revenue Code.

Section 8. KRS 141.040 is amended to read as follows:

Every corporation organized under the laws of this state, every corporation having its commercial domicile as defined in KRS 141.120 (1) (b) in this state, and every foreign corporation owning or leasing property located in this state or having one or more individuals receiving compensation as defined in KRS 141.120 (9) (b) in this state, except state and national banks and trust companies, savings and loan associations organized under the laws of this state and under the laws of the United States and making loans to members only, banks for cooperatives, production credit associations, insurance companies, including farmers' or other mutual hail, cyclone, windstorm or fire insurance companies, insurers and reciprocal underwriters, *those corporations exempted by Section 501 of the Internal Revenue Code,* and *any other* religious, educational, charitable *or* [and] like corporations not organized or conducted for pecuniary profit, shall pay for each taxable year a tax to be computed by the taxpayer upon the taxable net income of the corporation at the [following] rate *of*[:

(a) For taxable years ending on or before December 31, 1971, five percent of the first twenty-five thousand dollars and seven percent of the excess;

(b) For taxable years beginning on or after January 1, 1972,] four percent of the first twenty-five thousand dollars and five and eight-tenths percent of the excess. [;

(c) For taxable years beginning in 1971 and ending in 1972, the tax shall be the sum of the following taxes determined as follows:

1. Five percent of the first twenty-five thousand dollars and seven percent of the excess, multiplied by the ratio of the number of days from the first day of the taxable year through December 31, 1971, to the number of days of the taxable year, and

2. Four percent of the first twenty-five thousand dollars and five and eight-tenths percent of the excess, multiplied by the ratio of the number of days from January 1, 1972, through the last day of the taxable year, to the number of days of the taxable year.]

Section 9. KRS 141.044 is amended to read as follows:

(1) The estimated tax provided for in KRS 141.042 shall be paid as follows:

(a) If the declaration is filed on or before June 15 of the taxable year, the estimated tax shall be paid in three (3) instalments. The first instalment, in an amount equal to fifty per cent (50%) of the estimated tax, shall be paid at the time of the filing of the declaration. The second and third instalments, each in an amount equal to twenty-five per cent (25%) of the estimated tax, shall be paid on September 15 and December 15, respectively, of the taxable year;

(b) If the declaration is filed after June 15 and not after September 15 of the taxable year and is not required by KRS 141.042 to be filed on or before June 15 of the taxable year, the estimated tax shall be paid in two (2) instalments. The first instalment, in an amount equal to seventy-five per cent (75%) of the estimated tax, shall be paid at the time of the filing of the declaration and the second instalment, in an amount equal to twenty-five per cent (25%) of the estimated tax, on December 15 of the taxable year;

(c) If the declaration is filed after September 15 of the taxable year and is not required to be filed on or before September 15 of the taxable year, the estimated tax shall be paid in full at the time of the filing of the declaration;

(d) If the declaration is filed after the time prescribed in KRS 141.042, including cases where extensions of time have been granted, paragraphs (a), (b), and (c) of this subsection shall not apply, and there shall be paid at the time of such filing all instalments of estimated tax which would have been payable on or before such time if the declaration had been filed within the time prescribed in KRS 141.042, and the remaining instalments shall be paid at the times at which, and in the amounts in which, they would have been payable if the declaration had been so filed.

(2) In the case where the tax computed under this chapter is less than the amount which has been declared and paid as estimated tax for the same taxable year, a refund shall be made upon the filing of a return, together with interest on such overpayment at the rate of *eight* [six] per cent *(8%)* [(6)] per annum from the fifteenth day of the seventh month following the close of the taxable year for which the return is filed, or from the fifteenth day of the fourth month following the filing of the return if the return is filed later than the normal filing date.

(3) (a) Overpayment resulting from the payment of estimated tax in excess of the amount determined to be due upon the filing of a return for the same taxable year may be credited against the amount of

estimated tax determined to be due on any declaration filed for the next succeeding taxable year or for any deficiency or nonpayment of tax for any previous taxable year.

(b) No refund shall be made of any estimated tax paid unless a complete return is filed as required by this chapter.

(4) At the election of the taxpayer, any instalment of the estimated tax may be paid prior to the date prescribed for its payment.

(5) In the application of this section and KRS 141.042 to the case of a taxable year beginning on any date other than January 1, there shall be substituted for the months specified therein the relative months and dates which correspond thereto.

Section 10. KRS 141.120 is amended to read as follows:

(1) As used in this section, unless the context requires otherwise:

(a) "Business income" means income arising from transactions and activity in the regular course of a trade or business of the taxpayer and includes income from tangible and intangible property if the acquisition, management, or disposition of the property constitutes integral parts of the taxpayer's regular trade or business operations;

(b) "Commercial domicile" means the principal place from which the trade or business of the taxpayer is managed;

(c) "Compensation" means wages, salaries, commissions, and any other form of remuneration paid or payable to employes for personal services;

(d) "Financial organization" means any bank, trust company, savings bank, industrial bank, land bank, safe deposit company, private banker, savings and loan association, credit union, cooperative bank, investment company, or any type of insurance company;

(e) "Nonbusiness income" means all income other than business income;

(f) "Public service company" means any business entity subject to taxation under KRS 136.120;

(g) "Sales" means all gross receipts of the taxpayer not allocated under subsections *(3)* [(4)] through *(7)* [(8)] of this section;

(h) "State" means any state of the United States, the District of Columbia, the commonwealth of Puerto Rico, any territory or possession of the United States, and any foreign country or political subdivision thereof.

(2) Any corporation *which is required by KRS 141.010(14)(b) to allocate and apportion its net income* [having income from business activity which is taxable both within and without this state] shall allocate and apportion its net income as provided in this section.

[(3) For purposes of allocation and apportionment of income under this section, a corporation is taxable in another state if, in that state it is subject to a net income tax, a franchise tax measured by net income, a franchise tax for the privilege of doing business, or corporate stock tax; or that state has jurisdiction to subject the corporation to a net income tax, a franchise tax measured by net income, a franchise tax for the privilege of doing business, or corporate stock tax, regardless of whether, in fact, the state does or does not.]

(3) [(4)] Rents and royalties from real or tangible personal property, capital gains and losses, interest, [dividends,] or patent or copyright royalties, to the extent that they constitute nonbusiness income, shall be allocated as provided in subsections *(4)* [(5)] through *(7)* [(8)] of this section.

(4) [(5)] (a) Net rents and royalties from real property located in this state are allocable to this state.

(b) Net rents and royalties from tangible personal property are allocable to this state if and to the extent that the property is utilized in this state; or in their entirety if the taxpayer's commercial domicile is in this state and the taxpayer is not organized under the laws of or taxable in the state in which the property is utilized.

(c) The extent of utilization of tangible personal property in a state is determined by multiplying the rents and royalties by a fraction, the numerator of which is the number of days of physical location of the property in the state during the rental or royalty period in the taxable year and the denominator of which is the number of days of physical location of the property everywhere during all rental or royalty periods in the taxable year. If the physical location of the property during the rental or royalty period is unknown or unascertainable by the taxpayer, the tangible personalty is utilized in the state in which the property was located at the time the rental or royalty payer obtained possession.

(5) [(6)] (a) Capital gains and losses from sales or other dispositions of real property located in this state are allocable to this state.

(b) Capital gains and losses from sales or other dispositions of tangible personal property are allocable to this state if the property had a situs in this state at the time of the sale, or the taxpayer's commercial domicile is in this state and the taxpayer is not taxable in the state in which the property had a situs.

(c) Capital gains and losses from sales or other dispositions of intangible personal property are allocable to this state if the taxpayer's commercial domicile is in this state.

(6) [(7)] Interest *is* [and dividends are] allocable to this state if the taxpayer's commercial domicile is in this state.

(7) [(8)] (a) Patent and copyright royalties are allocable to this state if and to the extent that the patent or copyright is utilized by the payer in this state; or if and to the extent that the patent or copyright is utilized by the payer in a state in which the taxpayer is not taxable and the taxpayer's commercial domicile is in this state.

(b) A patent is utilized in a state to the extent that it is employed in production, fabrication, manufacturing, or other processing in the state or to the extent that a patented product is produced in the state. If the basis of receipts from patent royalties does not permit allocation to states or if the accounting procedures do not reflect states of utilization, the patent is utilized in the state in which the taxpayer's commercial domicile is located.

(c) A copyright is utilized in a state to the extent that printing or other publication originates in the state. If the basis of receipts from copyright royalties does not permit allocation to states or if the accounting procedures do not reflect states of utilization, the copyright is utilized in the state in which the taxpayer's commercial domicile is located.

(8) [(9)] All business income shall be apportioned to this state by multiplying the income by a fraction, the numerator of which is the property factor plus the payroll factor plus the sales factor, and the denominator of which is three (3).

(a) The property factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property owned or rented and used in this state during the tax period and the denominator of which is the average value of all the taxpayer's real and tangible personal property owned or rented and used during the tax period; provided, however, that property which has been certified as a pollution control facility as defined in KRS 224.850 shall be excluded from the property factor.

1. Property owned by the taxpayer is valued at its original cost. If the original cost of any property is not determinable or is nominal or zero such property shall be valued by the department under regulations promulgated by the department. Property rented by the taxpayer is valued at eight (8) times the net annual rental rate. Net annual rental rate is the annual rental rate paid by the taxpayer less any annual rental rate received by the taxpayer from sub-rentals, provided that such rental and such sub-rentals are reasonable. If the department determines that the annual rental or sub-rental rate is unreasonable, or if a nominal or zero rate is charged, the department may determine and apply such rental rate as will reasonably reflect the value of the property rented by the taxpayer.

2. The average value of property shall be determined by averaging the values at the beginning and ending of the tax period but the department may require the averaging of monthly values during the tax period if reasonably required to reflect properly the average value of the taxpayer's property.

(b) The payroll factor is a fraction, the numerator of which is the total amount paid or payable in this state during the tax period by the taxpayer for compensation, and the denominator of which is the total compensation paid or payable everywhere during the tax period. Compensation is paid or payable in this state if:

1. The individual's service is performed entirely within the state; or

2. The individual's service is performed both within and without the state, but the service performed without the state is incidental to the individual's service within the state; or

3. Some of the service is performed in the state and the base of operations or, if there is no base of operations, the place from which the service is directed or controlled is in the state, or the base of operations or the place from which the service is directed or controlled is not in any state in which some part of the service is performed, but the individual's residence is in this state.

(c) The sales factor is a fraction, the numerator of which is the total sales of the taxpayer in this state during the tax period, and the denominator of which is the total sales of the taxpayer everywhere during the tax period. Sales of tangible personal property are in this state if:

1. The property is delivered or shipped to a purchaser, other than the United States government, or to the designee of the purchaser within this state regardless of the f.o.b. point or other conditions of the sale; or

2. The property is shipped from an office, store, warehouse, factory, or other place of storage in this state and the purchaser is the United States government.

3. Sales, other than sales of tangible personal property, are in this state if the income-producing activity is performed in this state; or the income-producing activity is performed both in and outside this state and a greater proportion of the income-producing activity is performed in this state than in any other state, based on costs of performance.

(9) [(10)] If the allocation and apportionment provisions of this section do not fairly represent the extent of the taxpayer's business activity in this state, the taxpayer may petition for or the department may require, in respect to all or any part of the taxpayer's business activity, if reasonable:

(a) separate accounting;

(b) the exclusion of any one or more of the factors;

(c) the inclusion of one or more additional factors which will fairly represent the taxpayer's business activity in this state; or

(d) the employment of any other method to effectuate an equitable allocation and apportionment of the taxpayer's income.

(10) [(11)] Public service companies and financial organizations *required by KRS 141.010(14)(b) to allocate and apportion net income shall allocate and apportion* [having income from business activity which is taxable both within and without this state shall allocate] such income as follows:

(a) Nonbusiness income shall be allocated to this state as provided in subsections *(4)* [(5)] through *(7)* [(8)] of this section;

(b) Business income shall be *apportioned* [allocated] to this state by multiplying the business income by a fraction, the numerator of which is the property factor plus the payroll factor plus the sales factor and the denominator of which is three (3). The payroll factor shall be determined as provided in subsection *(8)* [(9)](b) of this section. The property factor and sales factor shall be determined as provided by regulations promulgated by the department.

Section 11. KRS 141.205 is amended to read as follows:

(1) The department may require either a consolidated return or a combined return from any or all corporations conducting inter-corporate transactions whenever the department finds that such inter-corporate transactions reduce taxable net income, as defined in KRS 141.010(14), of the corporation(s) below the amount which would result if the transactions were at arms-length.

(2) The department is authorized and empowered to assess the tax against any of the corporations whose income is included in the consolidated or combined return in such manner as it may determine necessary to prevent the avoidance of income tax.

(3) In the case of corporations not required to file a consolidated or combined return under subsection (1) of this section that carried on transactions with stockholders or affiliated corporations directly or indirectly, the department shall adjust the net income of such corporations to an amount that would result if such transactions were carried on at arm's length.

[(4) Notwithstanding subsection (8) of KRS 141.010, for taxable years beginning after December 31, 1969, any corporation which participates in filing a consolidated federal income tax return under Internal Revenue Code section 1501 shall determine the federal income tax deduction as provided in this subsection. That deduction shall be the lesser of the two amounts computed under paragraphs (a) and (b) of this subsection, and shall be adjusted to reflect only federal income tax applicable to income taxed under the provisions of this chapter:

(a) The federal income tax liability shown on the consolidated federal income tax return for the taxable year, minus any federal tax credits actually utilized by the consolidated group, apportioned by a fraction, the numerator of which is the federal taxable income of the separate corporation and the denominator of which is the federal taxable income of the consolidated group before reduction for losses sustained by members of the group;

(b) The federal income tax liability of the consolidated group which would result from the application of the income tax rates contained in the Internal Revenue Code in effect December 31, 1967 to the consolidated federal income for the taxable year, minus any federal tax credits actually utilized by the consolidated group, apportioned by a fraction, the numerator of which is the federal taxable income of the separate corporation and the denominator of which is the federal taxable income of the consolidated group before reduction for losses sustained by members of the group;

(c) Notwithstanding the above provisions, no federal income tax deduction shall be allowed for taxable years beginning after December 31, 1971. Any corporation whose taxable year begins in 1971 and ends in 1972 shall determine the federal income tax deduction as follows:

1. Compute a federal income tax deduction, on the basis of the entire taxable year, by the provisions of this subsection, and

2. Multiply such federal income tax deduction by the ratio of the number of days of the taxable year in 1971 to the total number of days in the taxable year.]

Section 12. KRS 141.215 is amended to read as follows:

Members of [Every person on active service with] the [United States] army, navy, marines, air force, or *public health* [nursing] service of the United States government who *serve in an area designated as a combat zone by Presidential Proclamation and who are* [is] required by law to file an income tax return and pay income taxes to the state of Kentucky shall not be required to file such return and pay such taxes, which would otherwise become due during such period of service, until twelve (12) months after *such combat zone service* [the termination of the national emergency, or twelve (12) months after the termination of his period of military service, whichever is the earlier].

Section 13. KRS 141.235 is amended to read as follows:

(1) No suit shall be maintained in any court to restrain or delay the collection or payment of the tax levied by this chapter.

(2) [Any tax collected prior to January 1, 1966, pursuant to the provisions of KRS chapter 141, may be refunded in the manner provided in KRS 134.580, provided that the claim for refund is made within three (3) years of the due date of the return or date the tax was paid, whichever is the later.] Any tax collected [on or after January 1, 1966,] pursuant to the provisions of KRS chapter 141, may be refunded or credited in the manner provided in KRS 134.580, provided that the claim for refund or credit is made within four (4) years of the due date of the return or the date the tax was paid, whichever is the later, except that, in any case where the assessment period contained in KRS 141.210 has been extended by an agreement executed after December 31, 1965 between the taxpayer and the department, the limitation contained in this subsection shall be extended accordingly.

(3) Overpayments of taxes collected pursuant to KRS 141.300, 141.310, or 141.315 shall be refunded or credited with interest at *eight* [six] per cent *(8)* [(6)] per annum. The interest shall not begin to accrue until ninety (90) days after the overpayment is made, the return is filed, or the due date of the return, whichever is later.

(4) Exclusive authority to refund or credit overpayments of taxes collected pursuant to this chapter is vested in the commissioner or his authorized agent. Amounts directed to be refunded shall be paid out of the general fund.

Section 14. KRS 141.300 is amended to read as follows:

(1) Every individual shall, at the time prescribed in subsection (3), make a declaration of his estimated tax for the taxable year if his gross income from sources other than wages upon which Kentucky income tax will be withheld can reasonably be expected to exceed one thousand dollars ($1,000) for the taxable year and his gross income can reasonably be expected to be an amount not less than the amount for which a return is required under KRS 141.180.

(2) In the declaration required under subsection (1) the individual shall state:

(a) The amount which he estimates as the amount of tax under KRS 141.020 for the taxable year;

(b) The amount which he estimates as the credits for the taxable year under KRS 141.310 and KRS 141.315;

(c) The excess of the amount estimated under paragraph (a) over the amount estimated under paragraph (b), which excess for purposes of this chapter shall be considered the estimated tax for the taxable year;

(d) Such other information as may be prescribed in regulations promulgated by the department.

(3) The declaration required under subsection (1) shall be filed with the department on or before April 15 of the taxable year, except that if the requirements of subsection (1) are first met:

(a) After April 1 and before *June* [July] 2 of the taxable year, the declaration shall be filed on or before *June* [July] 15 of the taxable year; or

(b) After *June* [July] 1 and before *September* [November] 2 of the taxable year, the declaration shall be filed on or before *September* [November] 15 of the taxable year; or

(c) After *September* [November] 1 of the taxable year, the declaration shall be filed on or before *January* [February] 15 of the succeeding taxable year.

(4) An individual may make amendments of a declaration filed during the taxable year under subsection (3), under regulations prescribed by the department.

(5) If on or before *January 31* [February 15] of the succeeding taxable year the taxpayer files a return for the taxable year for which the declaration is required and pays in full the amount computed on the return as payable then, under regulations prescribed by the department:

(a) If the declaration is not required to be filed during the taxable year, but is required to be filed on or before such *January* [February] 15, such return shall, for the purposes of this section, be considered as such declaration; and

(b) If the tax shown on the return, reduced by the credits under KRS 141.350, is greater than the estimated tax shown in a declaration previously made or, in the last amendment thereof, such return shall, for the purposes of this section, be considered as the amendment of the declaration permitted by subsection (4) to be filed on or before such *January* [February] 15.

(6) The department shall promulgate regulations governing reasonable extensions of time for filing declarations and paying the estimated tax. Except in the case of taxpayers who are abroad, no such extension shall be for more than six (6) months.

(7) If the taxpayer is unable to make his own declaration, the declaration shall be made by a duly authorized agent or by the guardian or other person charged with the care of the person or property of such taxpayer.

(8) For the purposes of KRS 131.190, a declaration of estimated tax shall be held and considered a return of income under this chapter.

Section 15. KRS 141.305 is amended to read as follows:

(1) The estimated tax provided for in KRS 141.300 shall be paid as follows:

(a) If the declaration is filed on or before April 15 of the taxable year, the estimated tax shall be paid in *four (4)* [three (3)] equal installments. The first installment shall be paid at the time of the filing of the declaration, [and] the second and third on *June* [July] 15 and *September* [November] 15, respectively, of the taxable year, *and the fourth on January 15 of the succeeding taxable year;*

(b) If the declaration is filed after April 15 and not after *June* [July] 15 of the taxable year and is not required by subsection (3) of KRS 141.300 to be filed on or before April 15 of the taxable year, the estimated tax shall be paid in *three (3)* [two (2)] equal installments. The first installment shall be paid at the time of the filing of the declaration, [and] the second on *September* [November] 15 of the taxable year, *and the third on January 15 of the succeeding taxable year;*

(c) If the declaration is filed after *June* [July] 15 and not after *September* [November] 15 of the taxable year and is not required by subsection (3) of KRS 141.300 to be filed on or before *June* [July] 15 of the taxable year, the estimated tax shall be paid *in two (2) equal installments* [at the time of the filing of the declaration]. *The first installment shall be paid at the time of the filing of the declaration and the second on January 15 of the succeeding taxable year;*

(d) If the declaration is filed after *September* [November] 15 of the taxable year, and is not required by subsection (3) of KRS 141.300 to be filed on or before *September* [November] 15 of the taxable year, the *declaration shall be filed and* estimated tax shall be paid *on or before January 15 of the succeeding taxable year* [in full at the time of the filing of the declaration];

(e) If the declaration is filed after the time prescribed in KRS 141.300, including cases where extensions of time have been granted, paragraphs (b), (c), and (d) of this subsection shall not apply, and there shall be paid at the time of such filing all installments of estimated tax which would have been payable on or before such time if the declaration has been filed within the time prescribed in subsection (3) of KRS 141.300, and the remaining installments shall be paid at the times at which, and in the amounts in which, they would have been payable if the declaration had been so filed. Provided, that payments required under this section for purposes of the taxable year 1954 shall be limited to fifty percent of the total estimated tax for 1954.

(2) If any amendment of a declaration is filed, the remaining installments, if any, shall be ratably increased or decreased as the case may be, to reflect the respective increase or decrease in the estimated tax by reason of such amendment. and if any amendment is made after *September* [November] 15 of the taxable year any increase in the estimated tax by reasons thereof shall be paid at the time of making such amendment.

(3) At the election of the individual, any installment of the estimated tax may be paid prior to the date prescribed for its payment.

(4) Payment of the estimated tax, or any installment thereof shall be considered payment on account of the tax for the taxable year. Assessment in respect of the estimated tax shall be limited to the amount paid.

(5) In the case of an individual whose estimated gross income from farming for the taxable year is at least two-thirds of the total estimated gross income from all sources for the taxable year, in lieu of the time prescribed in subsection (3) of KRS 141.300, the declaration for the taxable year may be made at any time on or before *January* [February] 15 of the succeeding taxable year; and if such an individual files a return on or before *March 1* [February 28] of the succeeding taxable year, and pays in full the amount computed on the return as payable, such return shall have the same effect as that prescribed in subsection (5) of KRS 141.300 in the case of a return filed on or before *January 31* [February 15].

(6) The application of this section, KRS 141.300, and subsection (8) of KRS 141.990, to taxable years of less than twelve months shall be as prescribed in regulations promulgated by the department.

(7) In the application of this section and KRS 141.300 to taxpayers reporting income on a fiscal year basis, there shall be substituted for the date specified therein, the months corresponding thereto.

Section 16. KRS 141.990 is amended to read as follows:

(1) If any taxpayer fails or refuses to file a return or furnish any information requested in writing by the department, the department may make an estimate of the net income from any information in its possession, assess the tax at not more than twice the amount estimated to be due and add a penalty of twenty-five percent of the amount of any deficiency tax assessed concerning such failure or refusal to file a return or furnish any information. This penalty shall be in addition to all other applicable penalties in this section.

(2) If any taxpayer fails to make and file a return required by this chapter on or before the due date of the return or the due date as extended by the department, *or fails to pay the tax imposed by this chapter within the time prescribed,* then, unless it is shown to the satisfaction of the department that the failure is due to reasonable cause, five percent of the tax found to be due by the department shall be added to the tax for each thirty days or fraction thereof *that either filing the return or paying the tax is beyond the time prescribed or extended* [elapsing between the due date of the return and the date on which filed], but the total penalty shall not exceed twenty-five percent of the tax.

(3) If any part of any deficiency is due to negligence, or intentional disregard of rules and regulations but without intent to defraud, five percent of the total amount of the deficiency, in addition to the deficiency and other penalties provided in this section, shall apply.

(4) If any part of any deficiency is due to fraud with intent to evade tax fifty percent of the total amount of the deficiency, in addition to the deficiency and other penalties provided in this section, shall apply.

(5) [(a)] If the tax imposed by this chapter, whether assessed by the department, or the taxpayer, or any installment or portion of the tax is not paid on or before the date prescribed for its payment, there shall be collected, as a part of the tax, interest upon the unpaid amount at the rate of eight percent per annum from the date prescribed for its payment until payment is actually made to the department. [If any assessment made by the department is not paid within the time prescribed, or protested in accordance with KRS 131.110, the department may assess and the taxpayer shall pay as a penalty, in addition to the amount of the tax and other applicable penalties, one percent of the tax for each month the tax remains unpaid.

(b) If any taxpayer fails to pay the tax imposed by this chapter within the time prescribed, unless it is shown to the satisfaction of the department that the failure is due to reasonable cause, the department may assess a penalty of ten percent of the tax due, plus interest on the tax and penalty from the due date at one percent a month or fraction thereof until paid.]

(6) Any person required under the provisions of KRS 141.150 or 141.335 to furnish a statement required under that section who willfully furnishes a false or fraudulent statement, or who willfully fails to furnish a statement in the manner at the time and showing the information required under KRS 141.150 and 141.335, may for each such failure be subject to a civil penalty of ten dollars. Such penalty may be assessed and collected by the department, and the assessment of such penalty may be reviewed only in the manner provided in KRS 131.110.

(7) (a) Any employer required under the provisions of KRS 141.310, 141.315 or 141.330 to withhold taxes on wages, file returns, and make payment of amounts withheld to the department, who fails to withhold such taxes, or to file such returns when due, or who fails to remit amounts collected to the department when due, or when filing the returns understates the amount due shall, unless such failure to comply is shown to the satisfaction of the department to be due to reasonable cause, be subject to a civil penalty equal to five percent per month or fraction thereof not to exceed twenty-five percent, of the amount of taxes that should have been properly withheld and paid over to the department, or *ten dollars ($10)* [five dollars ($5)], whichever is greater, for each such failure. However, where such failure is shown to be due to reasonable cause the department may reduce the penalty provided herein to an amount equal to five percent of the amount of taxes that should have been properly withheld and paid over to the department but not to exceed one hundred dollars, or *ten dollars ($10)* [five dollars ($5)], whichever is greater, for each such penalty. Each penalty shall be assessed and collected by the department and the assessment of such penalty may be reviewed only in the manner provided in KRS 131.110. The penalty may be waived if the return and payment are received within thirty days after the due date and the employer has no previous record of late filing or late payment within two years next preceding such due date.

(b) Any employer required to file a return under the provisions of KRS 141.330 (1) when no tax should have been properly withheld, and who fails to file the same when due, shall be subject to a civil penalty of *ten dollars ($10)* [five dollars ($5)] for each violation. Such penalty shall be assessed and collected by the department and the assessment of such penalty may be reviewed only in the manner provided in KRS 131.110. The penalty may be waived if the return is received within thirty days after the due date and the employer has no previous record of late filing within two years next preceding such due date.

(8) Any individual required by KRS 141.300 to file a declaration of estimated tax and required by KRS 141.305 to pay such declaration of estimated tax may be subject to a penalty of ten percent of any underpayment or any late payment. Underpayment, for purposes of this subsection, is determined by subtracting applicable credits allowed by KRS 141.070, 141.300 and 141.310 from seventy percent of the tax liability as shown on the return for the taxable year. This subsection shall not apply to the taxable year in which the death of the taxpayer occurs nor in the case of a farmer exercising an election under subsection (5) of KRS 141.305.

(9) Any corporation required by KRS 141.042 to file a declaration of estimated tax and required to pay such declaration of estimated tax by the installment method prescribed by subsection (1) of KRS 141.044, may be subject to a penalty of ten percent of any installment underpayment or any installment not paid on time. Installment underpayment is the installment determined by subsection (1) of KRS 141.044, less the installment actually paid, based upon seventy percent of the income tax shown to be due on the final return for the year reduced by $5,000. Provided, however, that no corporation which filed declarations on the basis of its taxable income for the immediately preceding fiscal year and pays the amount thus computed when due shall be liable for any penalty under this subsection [; and provided further that the levy of any penalty under this subsection shall preclude the levy of the penalty under paragraph (b) of subsection (5) of this section].

(10) Any penalty imposed by subsections (1), (2), (3), (4), (5), (6), (7), (8) or (9) of this section shall be assessed, collected, and paid in the same manner as if it were a deficiency.

(11) Every tax imposed by this chapter, and all increases, interest and penalties thereon, shall become, from the time it is due and payable, a personal debt to the state from the taxpayer or other person liable therefor.

(12) In addition to the penalties herein prescribed, any taxpayer or employer, who willfully fails to make a return or willfully makes a false return, or who willfully fails to pay taxes owing or collected, with intent to evade payment of the tax or amount collected, or any part thereof, shall upon conviction thereof be fined not less than five hundred dollars nor more than five thousand dollars, or confined in the penitentiary for not less than twelve months or more than five years, or both.

(13) Any person who willfully aids or assists in, or procures, counsels, or advises the preparation or presentation under, or in connection with any matter arising under KRS Chapter 141 of a return, affidavit, claim, or other document, which is fraudulent or is false as to any material matter, whether or not such falsity or fraud is with the knowledge or consent of the person authorized or required to present such return, affidavit, claim, or document shall be guilty of a felony and, upon conviction thereof, shall be fined not more than five thousand dollars, or imprisoned not more than three years, or both, together with the costs of prosecution.

(14) A return for the purpose of this section shall mean and include any return, declaration or form prescribed by the department and required to be filed with the department by the provisions of this chapter, or by the rules and regulations of the department or by written request for information to the taxpayer by the department.

Section 17. The provisions of Sections 5 through 16 of this Act shall apply to taxable years beginning after December 31, 1975, except Sections 14 and 15 shall be effective for taxable years beginning after December 31, 1976.

Section 18. KRS 139.470 is amended to read as follows:

There are excluded from the computation of the amount of taxes imposed by this chapter:

(1) Gross receipts from the sale of, and the storage, use or other consumption in this state of, tangible personal property the gross receipts from the sale of which, or the storage, use or other consumption of which, this state is prohibited from taxing under the constitution or laws of the United States, or under the constitution of this state;

(2) Gross receipts from sales of, and the storage, use or other consumption in this state of:

(a) Nonreturnable *and returnable* containers when sold without the contents to persons who place the contents in the container and sell the contents together with the container;

(b) Returnable containers when sold with the contents in connection with a retail sale of the contents or when resold for refilling;

As used in this section the term "returnable containers" means containers of a kind customarily returned by the buyer of the contents for reuse. All other containers are "nonreturnable containers";

(3) Gross receipts from the sale of, and the storage, use or other consumption in this state of, tangible personal property used for the performance of a lump sum, fixed fee contract of public works executed prior to February 5, 1960;

(4) Gross receipts from occasional sales of tangible personal property and the storage, use or other consumption in this state of tangible personal property, the transfer of which to the purchaser is an occasional sale;

(5) Gross receipts from sales of tangible personal property to a common carrier, shipped by the seller via the purchasing carrier under a bill of lading, whether the freight is paid in advance or the shipment is made freight charges collect, to a point outside this state and the property is actually transported to the out-of-state destination for use by the carrier in the conduct of its business as a common carrier*;* [.]

(6) Gross receipts from sales of tangible personal property made in one cent (1¢) portions through vending machines.

Section 19. KRS 139.610 is amended to read as follows:

(1) The department shall upon written request received on or prior to the due date of the return or tax, for good cause satisfactory to the department, extend the time for filing the return or paying the tax for a period not exceeding thirty (30) days.

(2) Any person to whom an extension is granted and who pays the tax within the period for which the extension is granted shall pay, in addition to the tax, interest at the rate of *eight* [six] per cent *(8%)* [(6)%] per annum from the date on which the tax would otherwise have been due.

Section 20. KRS 139.660 is amended to read as follows:

(1) Whenever it is deemed necessary to insure compliance with this chapter, the department may require any person subject thereto to place with it such security as the department may determine. The

amount of the security shall be fixed by the department but, except as provided in subsection (2), shall not be greater than twice the estimated average liability of persons filing returns for quarterly periods or three times the estimated average liability of persons required to file returns for monthly periods, determined in such manner as the department deems proper [, or $20,000, whichever amount is the lesser].

(2) In case of persons habitually delinquent in their obligations under this chapter, the amount of the security shall not be greater than three times the average liability of persons filing returns for quarterly periods or five times the average liability of persons required to file returns for monthly periods [, or $20,000, whichever amount is the lesser].

(3) The limitations herein provided apply regardless of the type of security placed with the department.

(4) The amount of the security may be increased or decreased by the department subject to the limitations herein provided.

(5) (a) The department may sell the security at public auction if it becomes necessary to do so in order to recover any tax, interest or penalty due. Security in the form of a bearer bond issued by the United States or any state or local governmental unit which has a prevailing market price may, however, be sold by the department at a private sale at a price not lower than the prevailing market price thereof.

(b) The department shall give notice of the date, time and place of the sale to the person who placed the security by certified mail addressed to him at his last known address as it appears in the records of the department, or delivery to such person.

(c) Delivery means handing it to such person or leaving it at his place of business with the person in charge thereof; or, if there is no one in charge, leaving it in a conspicuous place therein; or, if the place of business is closed or the person to be served has no place of business, leaving it at his dwelling house with some person of suitable age and discretion residing therein. Said notice, if by certified mail, shall be postmarked no later than ten days prior to said sale; if by delivery, said notice shall be given no later than ten days prior to said sale.

(6) Upon any sale any surplus above the amounts due shall be returned to the person who placed the security.

Section 21. KRS 139.650 is amended to read as follows:

In every case, any tax not paid on or before the due date shall bear interest at the rate of *eight* [six] per cent *(8%)* [(6)%] per annum from the date due until the date of payment.

Section 22. KRS 139.740 is amended to read as follows:

(1) No judgment shall be entered and no garnishment or attachment shall be permitted by any court in this commonwealth in an action for the collection of a debt arising out of the sale of tangible personal property unless an affidavit containing a certificate of service is executed by the plaintiff to the effect that all use taxes due the commonwealth have been paid.

(2) Prior to the filing of the affidavit, required under subsection (1), the plaintiff (including counterclaimants or crossclaimants) shall, by first-class mail, serve upon the department a copy of the affidavit. Within fifteen (15) days from the date of the filing of the affidavit the department may file a counteraffidavit. In such event no judgment shall be entered or garnishment or attachment issued until proof has been taken concerning the matters at issue in the affidavit and counteraffidavit.

(3) In the event the use tax levied by this chapter is found to be due and unpaid the plaintiff may elect to pay the tax to the department, and the amount of the tax paid by the plaintiff shall be recovered as a part of any judgment entered. If the plaintiff does not elect to pay the use tax found to be due and unpaid, judgment for the amount of the tax shall be awarded to the commonwealth.

(4) Any judgment awarded to the commonwealth under this section shall constitute a prior claim to any judgment obtained by the plaintiff.

(5) Tax as defined herein includes interest accrued thereon at the rate of *eight* [six] per cent *(8%)* [(6%)] per annum.

(6) The provisions of this section shall not apply to a plaintiff holding a retail permit issued pursuant to this chapter.

Section 23. KRS 139.980 is amended to read as follows:

(1) If any taxpayer fails or refuses to file a return or furnish any information requested in writing by the department, the department may make an estimate of the tax liability under this chapter from any information in its possession, assess the tax at not more than twice the amount estimated to be due and add a penalty of ten percent of the amount of the tax assessed. This penalty shall be in addition to all other applicable penalties in this chapter.

(2) If any taxpayer fails to make and file a return required by this chapter on or before the due date of the return or the due date as extended by the department, then, unless it is shown to the satisfaction of the department that the failure is due to reasonable cause, five percent of the tax found to be due by the

department shall be added to the tax for each thirty days or fraction thereof elapsing between the due date of the return and the date on which filed, but the total penalty shall not exceed twenty-five percent of the tax, provided, however, that in no case shall the penalty be less than ten dollars.

(3) If any part of any deficiency is due to negligence, or intentional disregard of rules and regulations but without intent to defraud, five percent of the total amount of the deficiency, in addition to the deficiency and other penalties provided in this chapter shall apply.

(4) If the tax imposed by this chapter, whether assessed by the department, or the taxpayer, or any installment or portion of the tax is not paid on or before the date prescribed for its payment, there shall be collected, as a part of the tax, interest upon the unpaid amount at the rate of *eight* [six] percent *(8%)* [(6%)] per annum from the date prescribed for its payment until payment is actually made to the department. If any assessment made by the department is not paid within the time prescribed, or protested in accordance with KRS 131.110, the taxpayer shall pay as a penalty, in addition to the amount of the tax and other applicable penalties, one percent of the tax for each month the tax remains unpaid.

(5) Any person required under the provisions of this chapter or regulations adopted thereunder to furnish a statement or certificate (including the certificate referred to in KRS 139.750), who furnishes a statement or certificate containing any false or fraudulent statement, or who willfully fails to furnish such a statement or certificate in the manner and at the time required under this chapter and regulations, shall, for each such failure be subject to a civil penalty of ten dollars. Such penalty shall be assessed and collected by the department, and the assessment of such penalty may be reviewed only in the manner provided in KRS 131.110.

Section 24. KRS 133.045 is amended to read as follows:

(1) The tax roll shall be open for inspection in the property valuation administrator's office for five (5) days beginning on the first Monday in June of each year. In case of necessity, the department of revenue may order a reasonable extension of time for the inspection period of the tax roll or it may order that the inspection period be at a different time than that provided herein. The property valuation administrator shall publish pursuant to KRS chapter 424, a notice as to the time of the inspection period. The cost of such notice shall be paid by the fiscal court of the county. Such notice shall also be posted at the courthouse door. Failure to publish or post notices when the inspection period is at the regular time as provided in this section shall not invalidate assessments made by the property valuation administrator and recorded on the tax roll prior to the inspection period.

(2) The tax roll shall be available to the public at reasonable times, other than that provided in subsection (1), and in a manner not unduly interfering with proper operation of the custodian's office and so long as the inspection of the roll or disclosure of information contained therein would not be detrimental to public interest or used for commercial or business purposes unrelated to property valuation and assessment.

Section 25. KRS 132.275 is amended to read as follows:

Each gas, water, electric light and telephone company [operating in a county containing a city of the first class] shall furnish, *upon request,* to the property valuation administrator *in each county in which they do business* a list showing the names and addresses of all persons, firms, or corporations receiving service from such utilities, and *coded as to the general type of property to which service is provided as of December 31 each year* [thereafter on every Monday, said utility companies shall furnish to said property valuation administrator a report containing the names of all persons, firms, or corporations who have, during the week immediately preceding, ordered gas, water, electric light or telephone service to be installed, removed or discontinued, with the addresses at which the services were ordered to be installed, removed or discontinued]. *The request shall be made prior to January 1 and the information shall be furnished prior to March 1.* Such information shall be treated as confidential and shall be used by said property valuation administrator only for the purpose of making accurate records; Provided, however, That said property valuation administrator shall permit the city assessor of *any city in the county* [said city of the first class] and any other taxing bodies of the various governments to examine said records for official purposes only, and said units of government shall treat said information as confidential.

Section 26. KRS 140.090 is amended to read as follows:

(1) In calculating the value of the distributive shares the following deductions and no others shall be allowed:

(a) Debts of the decedent, except debts secured by property not subject to the tax jurisdiction of Kentucky; and except debts barred by the statute of limitations;

(b) Taxes accrued and unpaid, except those on property not subject to the tax jurisdiction of Kentucky;

(c) Death duties paid to foreign countries;

(d) Federal estate taxes, in the proportion which the net estate in Kentucky subject to federal estate taxes bears to the total net estate everywhere subject to federal estate taxes; all calculations are subject to approval by the department of revenue;

(e) Drainage, street or other special assessments due and unpaid which are a lien on said property;

(f) Funeral, monument, and cemetery lot maintenance expenses actually paid not exceeding in total twenty-five hundred dollars ($2,500);

(g) Commission of executors and administrators in the amount actually allowed and paid;

(h) Cost of administration, including attorney's fees actually allowed and paid.

(2) Notwithstanding the provisions of KRS 404.040, the debts of a deceased wife, subject to the exception in (1)(a), shall be allowed in calculating the distributive shares of her estate for purposes of this chapter, provided such debts are paid from the proceeds of her estate.

Section 27. KRS 140.210 is amended to read as follows:

(1) All taxes imposed by this chapter, unless otherwise provided in this chapter, shall be due and payable to the department of revenue at the death of the decedent. If they are paid within nine (9) months a discount of five per cent (5%) shall be allowed, and if they are paid within eighteen (18) months no interest shall be charged and collected thereon. If the taxes due are not paid within eighteen (18) months, a penalty of ten per cent (10%) per annum shall be charged and collected from the time the taxes accrued, except in cases where, by reason of claims made upon the estate, necessary litigation, or other unavoidable cause of delay, the estate of the decedent or a part thereof cannot be settled at the end of eighteen (18) months from the death of the decedent. In such cases only *eight* [six] per cent *(8%)* [(6%)] per annum shall be charged upon the tax from the expiration of said eighteen (18) months until the cause of the delay is removed.

(2) In all cases where the personal representatives or trustees do not pay the taxes within eighteen (18) months from the death of the decedent, they shall be required to give bond in the form and to the effect prescribed by the department, for the payment of the taxes and interest.

Section 28. KRS 393.110 is amended to read as follows:

(1) Every person holding funds or other property, tangible or intangible, presumed abandoned under this chapter shall report to the department with respect to the property annually as of July 1. The report shall be filed in the office of the department on or before September 1 of each year for the preceding July 1, and shall give the name of the owner, his last known address, the amount and kind of property, and such other information as the department may require for the administration of this chapter. The report shall be made in duplicate; the original shall be retained by the department, and the copy shall be mailed to the sheriff of the county where the property is located or held. It shall be the duty of the sheriff to post for not less than twenty consecutive days said copy on the courthouse door or the courthouse bulletin board, and also to publish said copy pursuant to KRS chapter 424*; except the sheriff shall not be required to publish any item with a fair cash value of twenty-five dollars ($25) or less.* The list shall be published within thirty days of its receipt by the sheriff and this publication shall constitute compliance with the requirements of KRS Chapter 424. The cost of the publication shall be paid by the state. The sheriff shall immediately certify in writing to the department the dates when the list was posted and published. The list shall be posted and published as required on or before October 1 of the year when it is made, and such posting and publishing shall be constructive notice to all interested parties.

(2) Within sixty days after the receipt of the report required by subsection (1) of this section, the department shall mail notice to each person having an address listed therein who appears to be entitled to property presumed abandoned under this chapter*; except the department shall not be required to mail a notice to any person whose name appears on the abandoned property list where the fair cash value of the property is twenty-five dollars ($25) or less.* The notice shall contain:

(a) A statement that according to a report filed with the department properties being held to which the addressee appears entitled;

(b) The name and address of the person holding the property and any necessary information regarding changes of name and address of the holder;

(c) A statement that, if satisfactory proof of claim is not presented by the owner to the holder by the date specified in the published notice, the property will be placed in the custody of the department to whom all further claims must be directed.

(3) Any person who has made a report of any estate or property presumed abandoned, as required by this chapter, shall, between November 1 and November 15 of each year, turn over to the department all property so reported; but if the person making the report or the owner of the property shall certify to the department by sworn statement that any or all of the statutory conditions necessary to create a presumption of abandonment no longer exist or never did exist, or shall certify the existence of any fact or circumstance which has a substantial tendency to rebut such presumption, then, the person reporting or holding the property shall not be required to turn the property over to the department except on order of court. If a person files an action in court claiming any property which has been reported under the provisions of this chapter, the person reporting or holding such property shall be under no duty while any such action is pending to turn the

property over to the department, but shall have the duty of notifying the department of the pendency of such action.

(4) The person reporting or holding the property or any claimant thereof shall always have the right to a judicial determination of his rights under this chapter and nothing therein shall be construed otherwise; and the Commonwealth may institute an action to recover such property as is presumed abandoned whether it has been reported or not and may include in one petition all such property within the jurisdiction of the court in which the action is brought provided the property of different persons is set out in separate paragraphs.

Section 29. KRS 393.120 is amended to read as follows:

(1) Tangible personal property required by KRS Chapter 393 to be liquidated in order to permit payment to the department shall be delivered to the master commissioner of the county in which such property is located. The master commissioner shall within a reasonable time advertise the property for sale in accordance with KRS Chapter 424 and shall sell it at public auction to the highest bidder. The master commissioner shall pay to the department the proceeds of such sale, less costs incidental to the liquidation or any legal proceedings, and any liabilities against the property which have been properly claimed and approved.

(2) For [Any] intangible personal property required by KRS *Chapter 393* [393.060 to 393.110] to be liquidated so as to permit payment to the department, [shall be surrendered to the department and sold by it] *the department shall require the agencies or holders of abandoned intangible personal property to sell or dispose of the property on a given date at the quoted market value in the case of property listed in recognized market exchanges, or, in the case of property not listed in a recognized market exchange, at a price recommended by the department or at the highest price offered at a public sale, whichever is greater. In the event that the intangible property is of a nature such that there is not a readily available market, the department may offer the property* to the highest bidder at public sale at Frankfort, or in whatever city in the state affords, in its judgment, the most favorable market for the particular property involved. *If a sale is required to permit payment to the department, the* [The] department may decline the highest bid and reoffer the property for sale if it considers the price offered insufficient. The sale shall be advertised by publication pursuant to KRS chapter 424 in the county where the property was found or abandoned, and in the county where the sale is to be made. The sale shall be held at the courthouse door.

SECTION 30. A NEW SECTION OF KRS CHAPTER 139 IS CREATED TO READ AS FOLLOWS:

Notwithstanding all other provisions of this chapter, the taxes imposed by this chapter shall apply to the horse industry as follows:

(1) The taxes imposed under the provisions of this chapter shall apply to the following transactions:

(a) Fees paid for breeding a stallion to a mare in this state;

(b) Sales of horses unless exempted under the provisions of subsections (2)(a) or (2)(c) of this section;

(c) Claiming price of any horse claimed at any race meeting within this state.

(2) The taxes imposed under the provisions of this chapter shall not apply to the sale or use of:

(a) Horses, or interests or shares in horses, provided the purchase or use is made for breeding purposes only;

(b) Stallion services, including the trading but not the sale thereof, providing the use or trading is made by the owner of the stallion or the owner of an interest or share in the stallion;

(c) Horses less than two years of age at the time of sale, provided the sale is made to a non-resident of Kentucky, and the horse is transported out of the state, either immediately following the sale or immediately following training within the state if the horse is kept temporarily within the state for training purposes following the sale.

(3) The taxes imposed by this chapter shall not apply to receipts for boarding and training of horses within this state, nor to the temporary use of horses within this state for purposes of racing, exhibiting, or performing.

Section 31. KRS 139.630 is hereby repealed.

HB 558, AN ACT relating to public officials.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 64 IS CREATED TO READ AS FOLLOWS:

(1) As used in this Act unless the context otherwise requires:

(a) "Biennial income" means the total amount received from the state treasury by each member of the legislature under KRS 6.190 to 6.225 and KRS 7.090 to 7.110 during each two-year period commencing January 1 of every even-numbered year;

(b) "Commission" means the public officials compensation commission;

(c) "Fixed biennial income" means that portion of biennial income received by each member of the legislature under KRS 6.213 and, during regular sessions of the general assembly, under KRS 6.190 to 6.220, excluding any income received by standing committee chairmen and the president pro tem of the senate during sessions of the general assembly in excess of that income received by other members;

(d) "Variable biennial income" means that portion of biennial income which is not fixed income, including that income received by standing committee chairmen and the president pro tem of the senate under KRS 6.190 which is in excess of the income received by other members, income received by each member of the general assembly during any extraordinary session of the general assembly, income received by the speaker of the house of representatives and the president pro tem of the senate under KRS 6.225, and income received by each member of the legislature under KRS 7.090 to 7.110.

SECTION 2. A NEW SECTION OF KRS CHAPTER 64 IS CREATED TO READ AS FOLLOWS:

There is hereby established a commission to be known as the public officials compensation commission consisting of six members as follows: one shall be appointed by the governor, one shall be appointed by the lieutenant governor, one shall be appointed by the speaker of the house of representatives, one shall be appointed by the president pro tem of the senate, one shall be appointed by the chief justice of the Supreme Court, and one shall be appointed by the chief judge of the Court of Appeals. All appointments shall be for terms not to exceed four (4) years, except that the initial terms shall be for a period of three (3) years. No member shall be eligible for election or appointment to public office for the duration of his appointive term.

SECTION 3. A NEW SECTION OF KRS CHAPTER 64 IS CREATED TO READ AS FOLLOWS:

The commission may adopt rules and regulations for the conduct of its business, and elect one of its members to serve as chairman. Members of the commission shall be reimbursed for all necessary and actual expenses incurred in the conduct of the commission's activities, and shall be paid a sum of fifty dollars ($50) per diem while engaged in the work of the commission. The commission may employ such staff as deemed necessary to perform its duties.

SECTION 4. A NEW SECTION OF KRS CHAPTER 64 IS CREATED TO READ AS FOLLOWS:

The commission shall study the retirement benefits, per diem, mileage, travel expenses and other allowances, reimbursements and emoluments of public officials, in order to make specific recommendations to the general assembly.

SECTION 5. A NEW SECTION OF KRS CHAPTER 64 IS CREATED TO READ AS FOLLOWS:

The commission shall file its reports with the legislative research commission seventy-five (75) days prior to each session of the general assembly. The legislative research commission shall be responsible for the printing and distribution of the commission's reports to the members of the general assembly.

SECTION 6. A NEW SECTION OF KRS CHAPTER 6 IS CREATED TO READ AS FOLLOWS:

The income received by each member of the legislature under KRS 6.213, KRS 6.225, and KRS 7.090 to 7.110 for the period from July 1, 1976, through December 31, 1977, shall be paid in monthly installments during the period. Each monthly installment shall include the member's monthly expense allowance provided by KRS 6.213 plus any income earned by the member during the month under KRS 6.225 and KRS 7.090 to 7.110.

SECTION 7. A NEW SECTION OF KRS CHAPTER 6 IS CREATED TO READ AS FOLLOWS:

(1) Effective January 1, 1978, the biennial income of each member of the legislature shall be paid in monthly installments over the period of the biennium. Each monthly installment shall include one twenty-fourth (1/24) of the member's total fixed biennial income plus the variable income earned by him during the month. In the event of an extraordinary session of the general assembly, the calculation of fixed income, the amount of the monthly installments, or both, shall be adjusted as necessary to comply with the requirements of KRS 6.213(2). In the event that a member of the legislature dies or otherwise vacates his office prior to the end of a biennium, he or his estate shall receive, in one (1) lump-sum payment, any difference between the amount of biennial income that he has earned and the portion of biennial income that he has been paid at the time he vacates his office.

(2) The commissioner of the executive department for finance and administration shall, each month, draw his warrant on the treasurer in favor of each member of the legislature for the sum to which he is entitled as determined under subsection (1) of this section. These sums shall be paid from the general fund.

Section 8. KRS 6.190 is amended to read as follows:

Beginning as of January 1, *1978* [1952], the members of the general assembly, other than the speaker of the house of representatives, *the president pro-tempore of the senate and the majority and minority leadership of each house of the general assembly,* shall each receive as compensation *fifty dollars ($50.00)* [twenty-five dollars ($25.00)] per day, [and] the president of the senate, *the president pro-tempore of the senate* and the speaker of the house of representatives shall each receive as compensation *seventy-five dollars ($75.00)* [thirty dollars ($30.00)] per day, *the majority and minority floor leaders of each house of the general assembly shall each receive as compensation seventy dollars ($70.00) per day, and the assistant president pro-tempore of the senate and the majority and minority caucus chairmen and whips of each house of the general assembly shall each receive as compensation sixty-five dollars ($65.00) per day,* during [their attendance on] the session of the general assembly. *In addition to his compensation as a member of the general assembly, each chairman of a standing committee of the house of representatives or the senate shall receive compensation of ten dollars ($10.00) for each regularly scheduled meeting of the standing committee which he chairs during sessions of the general assembly. Effective January 1, 1976, each* [Each] member of the general assembly, and the president of the senate, shall receive fifteen cents (15¢) per mile for *round trips between his home and the state capitol during regular sessions of the general assembly and* the necessary travel in going to and returning from the sessions of their respective houses.

Section 9. KRS 6.211 is amended to read as follows:

Effective January 1, 1976, in [In] addition to any and all sums, compensation, or expenses now paid the members of the general assembly and the president of the senate, [they, and] each [of them] shall receive an expense allowance of *fifty dollars ($50.00)* [twenty-five dollars ($25.00)] for each *calendar* [legislative] day. This sum shall be paid whether the general assembly is in regular or extraordinary session and shall be in full recompense of any additional expenses incurred in excess of that now received by them.

Section 10. KRS 6.213 is amended to read as follows:

(1) In addition to the per diem and all allowances provided by law to members of the General Assembly of the Commonwealth of Kentucky each member of the legislature is hereby granted an expense allowance of *five hundred fifty dollars ($550)* [four hundred dollars ($400)] per month for secretarial assistance, books and periodicals, other reports or publications, conduct of small scale studies related to governmental activity, postage, telephone service, or any other expense incident to performance of the legislator's duties.

(2) The expense allowance provided for herein shall not be payable during any session of the General Assembly. For sessions occurring during a part of the month, the expense allowance shall be prorated.

(3) Such expense allowances shall be paid by the State Treasury out of the General Fund of the Commonwealth upon warrant of the Executive Department for Finance and Administration, issued on the certification of the Director of the Legislative Research Commission.

Section 11. KRS 7.090 is amended to read as follows:

(1) There is hereby created a legislative research commission composed of the president pro tem of the senate, the assistant president pro tem of the senate, the speaker of the house of representatives, the speaker pro tempore of the house of representatives, the majority and minority floor leaders of the senate and the house of representatives, the majority and minority party whip of the senate, the majority and minority party whip of the house, [and] the majority and minority caucus chairmen of the senate and house of representatives, *two members of the majority party of the house of representatives chosen by that body, and two members of the majority party of the senate chosen by that body.* Any vacancy in the commission shall be filled by the remaining members thereof, Provided, if the vacancy is in the membership of the house of representatives then the successor shall be from the house, and if the vacancy is from the senate membership of the commission then the successor shall be from the senate. A member thus elected to fill any vacancy shall hold office for the unexpired term of his predecessor. The president pro tem of the senate and the speaker of the house of representatives shall serve as co-chairmen of the commission.

(2) The legislative research commission shall meet during regular and special sessions of the general assembly, and during the intervals between sessions at such times and places as the co-chairmen may determine. Meetings of the commission shall be called by the co-chairmen on their own initiative, or at the written request of any three (3) members of the commission. For attending meetings between sessions, whether regular or special, of the general assembly, the members of the commission, or any subcommittee thereof, shall be paid their necessary traveling expenses and in addition thereto *sixty-five dollars ($65.00)* [twenty-five dollars ($25.00)] per day except as provided in KRS 6.225 *and in Section 8 of this Act.*

(3) The commission shall appoint a director, who shall have had graduate training in government in a recognized university or college or practical experience in governmental administration, and who shall hold office at the pleasure of the commission. The salary of the director shall be determined by the commission. The commission shall have exclusive jurisdiction over the employment of such personnel as may be necessary to effectuate the provisions of KRS 7.090 to 7.110.

(4) Any professional, clerical or other employes required by any committee appointed by the general assembly shall be provided to the committee by the legislative research commission. The chairman of the committee shall advise the director of the legislative research commission of his need for such personnel. In the event that the personnel required by any committee cannot be met by the staff of the legislative research commission, the director shall employ such personnel as necessary to meet the needs of the committee, and shall fix the rate of compensation of such employes.

(5) The director shall, at the discretion of the commission and under its supervision and control, provide for the allocation of the work and activities of all employes of the commission.

(6) The commission may, in effectuating the provisions of KRS 7.090 to 7.110, contract with any public or private agency or educational institution or any individual for research studies, the gathering of information or the printing and publication of its reports.

(7) The Legislative Research Commission shall constitute administrative offices for the General Assembly and the Director shall serve as administrative officer for the Assembly when it is not otherwise in session.

Section 12. KRS 7.110 is amended to read as follows:

(1) The commission or any member thereof, or an employe duly authorized by the commission or the chairman thereof, shall have access to all records of every agency, division or department of state government, and of any agency or institution, public or private, which has been the recipient of public funds. The commission or any member thereof, or any employe duly authorized by the commission or the chairman thereof, may require information on oath of any person touching any matter which he is instructed to investigate, study or audit, and shall have the power to subpoena witnesses and records for such purpose, and otherwise compel the giving of evidence of any matter under study. If any person fails or refuses to testify or furnish documentary evidence concerning any matter with respect to which the commission desires information pertaining to the studies in which it is engaged, the Franklin Circuit Court, on application of the commission, may compel obedience by proceedings for contempt as in the case of disobedience of a subpoena issued from the circuit court or a refusal to testify therein. Every witness so subpoenaed under this section shall receive for his attendance the fee and mileage provided for witnesses in civil cases in circuit court, which shall be audited and paid upon the presentation of proper vouchers sworn to by the witness and approved by the commission.

(2) All state agencies and institutions shall cooperate with the commission to effectuate the purposes of KRS 7.090 to 7.110 and shall submit copies of their annual or biennial reports to the commission.

(3) The commission shall encourage and arrange conferences with officials of other states and of other units of government; carry forward the participation of this state as a member of the council of state governments, both regionally and nationally, and formulate proposals for cooperation between this state and other states. The legislative research commission shall function as Kentucky's commission on interstate cooperation in carrying out the program of the council of state governments as it relates to Kentucky.

(4) The commission shall designate persons to represent Kentucky at the national conference of commissioners on uniform state laws. The commission shall report the findings and recommendations of the national conference to the general assembly. Any funds appropriated to the commissioners on uniform state laws shall be paid out on vouchers approved by the director of the commission.

(5) The commission may establish such subcommittees and advisory citizens' committees as may be convenient or desired for the proper and efficient performance of its functions. Members of the general assembly designated to serve on subcommittees shall receive the same travel allowances and compensation for attending meetings as *they do for attending meetings during a session of the general assembly* [commission members receive for attending meetings of the commission], *except that each general assembly member who is a chairman of a joint interim committee of the legislative research commission shall be paid sixty dollars ($60.00) per day for each committee meeting that he chairs.*

(6) The commission shall report its findings, either with or without recommendations, to the governor of the commonwealth, and to each member of the general assembly at least thirty (30) days prior to the convening of each regular session of the general assembly.

Section 13. KRS 64.640 is amended to read as follows:

(1) Except as otherwise provided in subsection (2) of this section, and excepting officers elected by popular vote, [commissioners of the Court of Appeals,] employes of the general assembly, including employes of the legislative research commission, members of boards and commissions, and presidents and employes of the state universities and the state colleges, the department of personnel shall prepare a schedule of compensation, payable out of the state treasury, with a minimum and maximum salary rate, and such intermediate salary rates as are deemed necessary or advisable, for the office or position of employment of every state officer and employe, including specifically the offices and positions of employment in every

constitutional administrative department, statutory administrative department, independent agency, or other unit of state government. Such schedules shall be based upon studies of the duties and responsibilities of the offices and positions and upon a comparison with rates being paid for similar or comparable services elsewhere, and in the preparation of such schedules, the department of personnel shall ascertain and record the duties, responsibilities and authority pertaining to the various offices and positions in the state service, and classify such positions in the manner provided in KRS 18.190 to 18.230. No such schedule shall become effective until it has been approved by the governor.

(2) The governor shall set the compensation payable out of the state treasury to each officer or position in the state service, which officer or position heads a statutory administrative department, independent agency, or other unit of state government except for those excluded under subsection (1). Such compensation shall be based upon studies of the duties and responsibilities and classification of the positions by the governor and upon a comparison with compensation being paid for similar or comparable services elsewhere, provided, however, such compensation shall not exceed *the amount provided for compensation to the governor in KRS 64.480* [$27,500 a year], the provisions of KRS 64.660 to the contrary notwithstanding.

(3) The compensation payable out of the state treasury to officers and employes subordinate to any office or position covered by subsection (2) of this section shall not exceed the maximum rate established pursuant to subsection (2) of this section for such office or position, except with respect to physicians as provided in KRS 64.655 and employes of the public service commission of Kentucky whose compensation shall be fixed, within constitutional limits, by the department of personnel with the approval of the governor as provided in subsection (1) of this section.

(4) Nothing in this section shall preclude the allowance of maintenance to officers and employes of the state.

Section 14. KRS 439.320 is amended to read as follows:

(1) The Governor shall appoint a parole board consisting of five members, one of whom he shall name as chairman of the board. He shall make each appointment from a list of three names given to him by the commission on correction and community service. Each member appointed to the board must have had at least five years of actual experience in the field of penology, correction work, law enforcement, sociology, law, education, social work, medicine or a combination thereof, or have served at least five years previously on the parole board. No more than three board members may be of the same political party. The board shall be attached to the department for administrative purposes only; the department shall provide such clerical, stenographic, administrative and expert staff assistance as the board deems necessary to carry out its duties.

(2) The members of the board shall give full time to the duties of their office and shall receive necessary traveling expenses and a salary *to be determined pursuant to KRS 64.640 (2)* [equivalent to a circuit judge], except the chairman of the board shall receive additional compensation of one thousand dollars ($1,000) per year for his services. Their term of office shall be four (4) years and until their successors are appointed and have qualified, except that the first appointments shall be for terms of two (2) years for two (2) members, and four (4) years for three (3) members. Their successors shall be appointed thereafter as provided in this section for terms of four (4) years, and a vacancy occurring before expiration of the term of office shall be similarly filled for the unexpired term. The chairman of the board shall serve as such until the expiration of his term at which time the governor shall name his successor and designate the chairman of the board. If a vacancy occurs in the chairmanship of the board before the expiration of the term the governor may name a successor to serve for the remainder of the unexpired term.

(3) Three (3) members of the board shall constitute a quorum. The organization of the board shall be determined by the chairman.

(4) The governor may not remove any member of the board except for disability, inefficiency, neglect of duty, or malfeasance in office. Before such removal he shall give the member a written copy of the charges against him and shall fix the time when he can be heard in his defense, which shall not be less than ten days thereafter. Upon removal the governor shall file in the office of the secretary of state a complete statement of all charges made against the member and the findings thereupon with a record of the proceedings.

(5) Present members of the board shall be deemed to have vacated their appointment and successors shall be appointed as provided in subsection (2). The governor may reappoint present members if they meet the qualifications set forth in subsection (1).

Section 15. KRS 64.480 is amended to read as follows:

(1) Effective, with respect to the offices of governor *on December 4, 1979, and the lieutenant governor* on the fifth Tuesday following the regular November election in 1975 and with respect to the other offices named in this section, on the first Monday in January, *1976* [1972], the compensation of the following named officers, payable monthly out of the state treasury, shall be the sum per annum designated for the respective offices, as follows: governor *$39,500* [$35,000]; lieutenant governor, an amount sufficient, when added to any per diem received during sessions of the general assembly while serving in the capacity of president of the

senate, to equal *$27,900* [$22,500] per annum, plus any compensation received while acting in the place of the governor; attorney general, superintendent of public instruction, commissioner of agriculture, secretary of state, state treasurer, auditor of public accounts, and clerk of the *supreme court of Kentucky elected in November, 1975, as clerk of the* court of appeals, *$27,900* [$22,500].

(2) In order to equate or adjust the compensation of the lieutenant governor, attorney general, superintendent of public instruction, commissioner of agriculture, secretary of state, state treasurer, auditor of public accounts, and clerk of the supreme court of Kentucky with the purchasing power of the 1949 dollar, the department of commerce of Kentucky shall compute by the second Friday in February of every year, beginning in 1977, the maximum permissible compensation of the officials mentioned in subsection (2) hereof based precisely upon the Consumer Price Index formula approved in Matthews v. Allen, Kentucky, 360 S.W. 2d 135 (1962). Thus the maximum permissible compensation effective for the entire year of 1977 and subsequent years will be the actual compensation to be paid said officials. The year of adjustment will be the particular full calendar year involved.

(3) It is the intention of the legislature that the constitutionally permissible adjustment of salaries of these officials be framed around equating current salaries with the purchasing power of the dollar in 1949 when Section 246 of the Kentucky Constitution was amended. Section 246 of the Constitution, as amended, established a monetary level of $12,000 per annum for said officials. The formula merely effects an adjustment of the constitutional monetary level in terms of the current Consumer Price Index.

Section 16. KRS 64.497 is amended to read as follows:

The salary of each judge of the Court of Appeals, payable out of the state treasury, shall be *thirty-seven thousand dollars ($37,000)* [thirty-one thousand and five hundred dollars ($31,500)] per annum, *with the exception of the chief judge of the court of appeals who shall receive a salary of thirty-seven thousand five hundred dollars ($37,500).* [The salary of each commissioner of the Court of Appeals appointed pursuant to KRS 21.150, payable out of the state treasury, shall be twenty-seven thousand and five hundred dollars ($27,500) per annum.]

Section 17. KRS 64.499 is amended to read as follows:

The salary of each circuit judge, payable out of the state treasury, shall be *thirty-five thousand dollars ($35,000)* [twenty-six thousand dollars ($26,000)] per annum. [The compensation payable under KRS 21.305 for services as a special commissioner of the Court of Appeals shall be included therein.]

SECTION 18. A NEW SECTION OF KRS CHAPTER 64 IS CREATED TO READ AS FOLLOWS:

The salary for each justice of the supreme court, payable out of the state treasury, shall be thirty-nine thousand dollars($39,000) per annum, except for the salary of the chief justice of the supreme court which shall be thirty-nine thousand five hundred dollars ($39,500) per annum.

Section 19. KRS 64.500, 64.502, and 64.505 are repealed.

Section 20. In order to effectuate the purposes of this Act, there is appropriated as follows:

(1) To the general assembly out of the general fund in the state treasury the sum of $415,000 for January 1, 1976, through June 30, 1976, the sum of $380,000 for the 1976-1977 fiscal year, and the sum of $949,000 for the 1977-1978 fiscal year. These amounts shall supplement amounts appropriated to the general assembly for compensation consistent with levels existing prior to passage of this Act.

(2) To the court of justice out of the general fund in the state treasury the sum of $1,264,120 for the fiscal year 1976-1977 and $1,264,120 for the fiscal year 1977-1978.

Section 21. Whereas, increases in the cost of living have resulted in the need for an immediate increase in the emoluments for public officials, an emergency is declared to exist, and this Act shall become effective upon its passage and approval by the governor, and shall be retroactive to include any and all days during the 1976 regular session of the general assembly which may have elapsed as of the date of passage and approval of this Act.

The Committee Amendment No. 1 to **HB 558** is as follows:

Amend printed copy of House Bill 558 page 8, lines 7 through 10 by deleting all the underlined material on said lines.

The Committee Amendment No. 2 ot **HB 558** is as follows:

Amend printed copy of House Bill 558 page 5, line 25 after the word "*senate*" add the words *,"the speaker pro-tempore"*.

The Committee Amendment No. 3 to **HB 558** is as follows:

Amend printed copy of House Bill 558 page 2, line 15, by deleting the word "six" and inserting in lieu thereof the word "five";

and on page 2, line 19 by deleting the "," and inserting in lieu thereof the word "and";

and on page 2, lines 20-21 by deleting the words ", and one shall be appointed by the chief judge of the Court of Appeals".

HB 563, AN ACT relating to the Kentucky Housing Corporation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 198A.090 is amended to read as follows:

(1) The corporation is hereby authorized to provide for the issuance, at one time or from time to time, of not exceeding *$400,000,000* [$200,000,000] bonds of the corporation to carry out and effectuate its corporate purposes and powers. In anticipation of the issuance of such bonds the corporation also is hereby authorized to provide for the issuance, at one time or from time to time, of bond anticipation notes. The principal of and the interest on such bonds or notes shall be payable solely from the funds herein provided for such payment. Any such notes may be made payable from the proceeds of bonds or renewal notes or, in the event bond or renewal note proceeds are not available, such notes may be paid from any available revenues or assets of the corporation. The bonds or notes of each issue shall be dated and may be made redeemable before maturity at the option of the corporation at such price or prices and under such terms and conditions as may be determined by the corporation. Any such bonds or notes shall bear interest at such rate or rates as may be determined by the corporation. Notes shall mature at such time or times not exceeding ten years from their date or dates and bonds shall mature at such time or times not exceeding forty years from their date or dates, as may be determined by the corporation. The corporation shall determine the form and manner of execution of the bonds or notes, including any interest coupons to be attached thereto, and shall fix the denomination or denominations and the place or places of payment of principal and interest, which may be any bank or trust company within or without the state. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds or notes or coupons attached thereto shall cease to be such officer before the delivery thereof, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. The corporation may also provide for the authentication of the bonds or notes by a trustee or fiscal agent. The bonds or notes may be issued in coupon or in registered form, or both, as the corporation may determine, and provision may be made for the registration of any coupon bonds or notes as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds or notes of any bonds or notes registered as to both principal and interest, and for the interchange of registered and coupon bonds or notes. Upon the approval of a resolution of the corporation, authorizing the sale of its bonds or notes, such bonds or notes may be sold in such manner, either at public or private sale, and for such price as said corporation shall determine to be for the best interest of the corporation and best effectuate the purposes of this chapter provided that such sale shall be approved by the corporation.

(2) The proceeds of any bonds or notes shall be used solely for the purposes for which issued and shall be disbursed in such manner and under such restrictions if any, as the corporation may provide in the resolution authorizing the issuance of such bonds or notes or in the trust agreement hereinafter mentioned securing the same.

(3) Prior to the preparation of definitive bonds, the corporation may, under like restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds shall have been executed and are available for delivery. The corporation may also provide for the replacement of any bonds or notes which shall become mutilated or shall be destroyed or lost.

(4) Bonds or notes may be issued under the provisions of this chapter only upon obtaining the approval of the State Property and Buildings Commission, pursuant to the provisions of KRS Chapter 56.

(5) The executive department for finance and administration shall provide to the corporation such fiscal consultant services regarding revenue bond management as may be necessary.

HB 569, AN ACT relating to taxation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 132.010 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Department" means the Department of Revenue.

(2) "Taxpayer" means any person made liable by law to file a return or pay a tax.

(3) "Real property" includes all lands within this state and improvements thereon.

(4) "Personal property" includes every species and character of property, tangible and intangible, other than real property.

(5) "Resident" means any person who has taken up a place of abode within this state with the intention of continuing to abide in this state; any person who has had his actual or habitual place of abode in this state for the larger portion of the twelve months next preceding the date as of which an assessment is due to be made shall be deemed to have intended to become a resident of this state.

(6) "Compensating tax rate" means that rate which, rounded to the next higher one-tenth of one cent per one hundred dollars of assessed value and applied to the 1972 assessment of the property subject to taxation by a taxing district, excluding net assessment growth, as defined in KRS 132.425, produces an amount of revenue approximately equal to that produced in 1971.

(7) "Agricultural land" means any tract of land of at least ten contiguous acres in area used for the production of livestock, livestock products, poultry, poultry products and/or the growing of tobacco and/or other crops including timber, or where devoted to and meeting the requirements and qualifications for payments pursuant to agriculture programs under an agreement with the state or federal government, where such activities produced an average gross income including payments under a state or federal program of at least $1,000 per year during the two years immediately preceding the tax year or there is evidence of anticipated yearly gross income of this amount. Land devoted exclusively to the growing of merchantable timber is excluded from the gross income provisions.

(8) "Horticultural land" means any tract of land of at least five contiguous acres in area commercially used for the cultivation of a garden, orchard, or the raising of fruits, vegetables, flowers or ornamental plants, where such activities produced an average gross income of at least $1,000 per year during the two years immediately preceding the tax year or there is evidence of anticipated yearly gross income of this amount.

(9) "Agricultural or horticultural value" means representative sales prices of comparable land purchased for agricultural or horticultural use with consideration being given to the purpose of purchase, such as, farm expansion, improved accessibility and other like factors unduly influencing the sales price.

(10) "Deferred tax" means the difference in the tax based on agricultural or horticultural value and the tax based on fair cash value.

(11) "Homestead" means *real property maintained as the permanent residence of the owner* [a single family dwelling] with all land and improvements adjoining and contiguous thereto including, but not limited to lawns, drives, flower or vegetable gardens, outbuildings and all other land connected *thereto* [to the single family dwelling].

(12) *"Residential unit"* ["Single unit residence"] means *all or that part of real property occupied as the permanent residence of the owner.* [a residence which is private—herein an individual or family lives. This does not include an apartment or duplex but does include a condominium unit owned and occupied on an individual basis.]

(13) "Special benefits" are those which are provided by public works not financed through the general tax levy but through special assessments against the benefited property.

Section 2. KRS 132.810 is amended to read as follows:

(1) To qualify under the homestead exemption provision of the Constitution, each person claiming the exemption shall file an application with the property valuation administrator of the county in which the applicant resides, on forms prescribed by the department of revenue. The assessed value of property on which homestead exemption is claimed shall not be increased because of valuation expressed on the application form filed with the property valuation administrator, and whenever it becomes known that the valuation of property subject to the homestead tax exemption has been increased because of valuation expressed on the application form, adjustment shall be made the following year so that the total tax paid by the taxpayer is the same as if the increase had not been made.

(2) (a) Every person filing an application for exemption under the homestead exemption provision must be sixty-five (65) years of age or older during the year for which application is made.

(b) Every person filing an application for exemption under the homestead exemption provision must own and maintain the property for which the exemption is sought as his personal residence.

(c) Only one (1) exemption per *residential unit* [homestead] shall be allowed regardless of the number of residents sixty-five (65) years of age or older occupying said *unit* [homestead], but the $6,500 exemption shall be construed to mean $6,500 in terms of the purchasing power of the dollar in 1972. Every two (2) years thereafter, if the cost of living index of the United States department of labor has changed as much as one (1) per cent, the maximum exemption shall be adjusted accordingly.

(d) *The real property may be held by legal or equitable title, by the entireties, jointly, in common, as a condominium, or indirectly by the stock ownership or membership representing the owner's or member's proprietary interest in a corporation owning a fee or a leasehold initially in excess of ninety-eight (98) years. The exemption shall apply only to the value of the real property assessable to the owner or, in case of ownership through stock or membership in a corporation, the value of the proportion which his interest in the corporation bears to the assessed value of the property.* [When a homestead is owned by more than one (1) person as joint tenants, tenants by the entirety, or tenants in common, the exemption applies only when all owners are sixty-five (65) years of age or older and the homestead is maintained as a residence of all of the owners, or the joint owner is the spouse of an eligible applicant. When a duplex is owned jointly by two (2) persons, each of whom is sixty-five (65) or older or has a spouse who is sixty-five (65) or older, and when each of the owners lives in a separate apartment in the duplex, the exemption shall apply to each of them as if they each owned a homestead.]

[(e) The renting of a room or rooms in a residence that otherwise qualifies for the homestead exemption does not constitute violation of the single unit residence restriction where such renting of rooms is merely incidental to use of the premises as a single family residence.]

(e) [(f)] A mobile home may qualify as a *residential unit* [single unit residence] for purposes of the homestead exemption provision provided the mobile home is classified as real property as defined in KRS 132.750.

(f) [(g)] When title to property which is exempted, either in whole or in part, under the homestead exemption is transferred, the owner, administrator, executor, trustee, committee, curator or agent shall report such transfer to the property valuation administrator.

(3) Notwithstanding any statutory provisions to the contrary, the provisions of this section shall apply to the assessment and taxation of property under the homestead exemption provision for state, county, city or special district purposes.

(4) The provisions of this section shall become effective *with* [during] the *1976* [1974] taxable year and persons eligible for a homestead exemption under this section shall file applications:

(a) Any time during the *1976* [1974] taxable year.

(b) By March 1 in any year after the *1976* [1974] taxable year.

SB 28, AN ACT relating to residency positions for medical school graduates in primary care disciplines.

WHEREAS, The Commonwealth of Kentucky has a critical need for increasing the availability of providers of primary medical care in strategic geographic areas; and

WHEREAS, a variety of approaches must be undertaken to assure the availability of primary medical care to all citizens of the Commonwealth; and

WHEREAS, studies have indicated that a high degree of association exists between the location of a physician's residency training and the location of his practice; and, in instances where prior residence is evidenced the association is further enhanced; and

WHEREAS, the ratio of residency positions to medical school graduates is inadequate; and

WHEREAS, there is a need to expand and improve the training of providers of primary care for non-hospitalized patients; and

WHEREAS, several practice settings in locations other than university medical centers can appropriately support a portion of a resident's rotation between the post-graduate education delivered in university medical centers and community locations; and

WHEREAS, there are inadequate numbers of primary care faculty and post-graduate education positions available; and

WHEREAS, the necessity of providing legislation to increase the number of primary care residency positions is unquestionable;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 164 is created to read as follows:

As used in this Act, unless the context otherwise requires, primary care means the practice of medicine as provided by professionals in family/general practice, general pediatrics, general internal medicine, emergency medicine, general obstetrics and gynecology. Primary care is a type of medical care delivery which emphasizes first contact care and assumes ongoing responsibility for the patient in both health maintenance and therapy of illness. It is personal care involving a unique interaction and communication between the patient and the physician. It is comprehensive in scope, and includes the overall coordination of the care of the patient's health problems, be they biological, behavioral or social. The appropriate use of consultants and community resources is an important part of effective primary care.

Section 2. A new section of KRS Chapter 164 is created to read as follows:

The University of Kentucky and the University of Louisville, and their affiliated programs are hereby authorized to increase the number of residency positions for medical school graduates in primary care disciplines from the fiscal 1976 level by a total of seventy-six additional positions during the 1977-78 biennium. These new positions shall be established in the following manner:

(1) For the fiscal year 1977 there shall be established twenty-eight new positions; for fiscal year 1978 there shall be forty-eight new positions.

(2) To provide adequate faculty supervision for these new residency positions, one faculty position (1 FTE) is hereby authorized for each additional four new residency positions established under the provisions of this Act.

(3) The number of the residency positions to be established at the University of Kentucky and at the University of Louisville shall be determined by the Council on Public Higher Education, using the policies and procedures for determining the allocation of these new residency positions as provided in Section 3(2) of this Act.

Section 3. A new section of KRS Chapter 164 is created to read as follows:

(1) All new residency positions shall be located at the University of Kentucky, the University of Louisville, but not less than one-third of the total man months per year, for the residency positions created in this Act, shall be spent practicing in a community facility which has been recommended by the University of Kentucky or the University of Louisville and approved by the council on public higher education.

(2) The University of Kentucky and the University of Louisville shall recommend policies and procedures for determining the allocation of new residency positions for approval by the council on public higher education using the following criteria:

(a) The available or expected number and types of qualified faculty necessary for the proper degree of supervision and teaching;

(b) The scope and volume of patient care;

(c) The amount of available physical facilities;

(d) The current number and types of residency positions offered at each university;

(e) Regional needs for the manpower trained under the provisions of this Act;

(f) The extent of involvement in education in primary care in ambulatory care settings; and

(g) Any other criteria which may be developed by the University of Kentucky, the University of Louisville and accepted by the council on public higher education.

Section 4. A new section of KRS Chapter 164 is created to read as follows:

Graduates of Kentucky medical schools and residents of Kentucky who are graduates of other medical schools in the United States shall be given preference over graduates of foreign medical schools when selecting individuals for residency positions established under this Act.

Section 5. A new section of KRS Chapter 164 is created to read as follows:

The council on public higher education shall coordinate the activities of the participating institutions, as described in this Act, to insure a comprehensive program for training individuals for the delivery of primary care in the Commonwealth.

Section 6. A new section of KRS Chapter 164 is created to read as follows:

Nothing in this Act shall be construed to mean that current residency positions may be financially supplemented or replaced by the new residency positions created under the provisions of this Act.

SB 99, AN ACT relating to appropriations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 45.230 is amended to read as follows:

(1) No state officer or agency shall, after the close of any fiscal year, incur, or vote, order or approve the incurring of, any obligation or expenditure under any appropriation for that fiscal year, and no expenditure shall be made from or charged to any appropriation for any fiscal year that has expired at the time the obligation for the expenditure was incurred.

(2) Budget units operating books of account on a full accrual basis, may, with the approval of the commissioner of the executive department for finance and administration, incur expenditures from allocated fund balances to the extent they represent assets on the audited fund balance sheet reports.

(3) Budget units operating both from agency funds and general appropriation funds and using an accrual basis of accounting may, with the approval of the commissioner of the executive department for finance and administration, incur expenditures from agency funds in excess of the sum of general funds and agency funds.

(4) The executive department for finance and adminstration may, for a period of *forty-five (45) days* [three (3) months] after the close of any fiscal year, draw warrants against the available balances of appropriations made for that fiscal year, for the payment of expenditures incurred during that year or in fulfillment of contracts properly made during that year, but for no other purpose. After the expiration of *forty-five (45) days* [three (3) months] from the beginning of each fiscal year, all balances of appropriations for the prior fiscal year shall lapse, unless otherwise provided by law, and no further payments shall be made on any claims on account of expenditures of the prior fiscal year.

SB 119, AN ACT relating to the late payment of taxes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 134.020 is amended to read as follows:

(1) All state, county, and district taxes, except as otherwise provided by law, shall be due and payable on September 15 following the assessment; except that all taxes in any year on unmanufactured tobacco, money in hand, or money on deposit outside this state, shall be due and payable on the second succeeding September 15 following the assessment, unless otherwise provided by law.

(2) Any taxpayer who pays his state, county, or district taxes by November 1 after they become due in any year shall be entitled to two per cent (2%) discount thereon, and the sheriff shall allow the discount and give a receipt in full to the taxpayer. The sheriff may, at any time after the taxes mentioned in this section become due, receive less than the face amount of the tax bill as a credit on the amount due, including the amount of any penalties then due; and every such payment shall be credited upon the tax bill or upon sheets annexed thereto for that purpose, and acknowledged in writing or by a rubber stamp, indicating the amount so paid to the sheriff.

(3) All state, county, and district taxes, except as otherwise provided by law, shall become delinquent on January 1 following their due date.

(4) Any taxes which are not paid by the date when they become delinquent shall be subject to a penalty of *ten percent (10%)* [six percent (6%)] on the taxes due and unpaid; except that taxes which became delinquent on January 1 shall be subject to a penalty of only two per cent (2%) on the taxes due and unpaid, if paid on or before the last day of January. The sheriff shall collect the penalty and account for it as he is required to collect and account for taxes.

SB 141, AN ACT relating to National Guardsmen.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 38 is created to read as follows:

(1) There is hereby established within the department of military affairs the Kentucky national guard educational encouragement fund.

(2) The adjutant general may authorize the payment from the fund established in subsection (1) of fifty (50) percent of any matriculation or tuition fee for each member of the active Kentucky national guard who is admitted to any state supported university, college, community college or vocational education school as a full-time or part-time student.

(3) To be eligible to receive benefits from the fund, a person must be a member in good standing of the active Kentucky national guard at the beginning of and throughout the entire semester for which benefits are payable.

(4) The adjutant general shall, in accordance with KRS Chapter 13, make rules and regulations necessary for the administration of the fund established in subsection (1).

Section 2. To carry out the purpose of this Act there is appropriated to the Kentucky national guard educational encouragement fund in the department of military affairs out of the General Expenditure Fund in the State Treasury the sum of twenty-five thousand ($25,000) dollars for the fiscal year 1976-77, and the sum of twenty-five thousand ($25,000) dollars for the fiscal year 1977-78.

SB 167, AN ACT relating to reimbursement of agents returning fugitives from justice to the Commonwealth.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 440.090 is amended to read as follows:

When the Governor of this state makes requisition upon the governor of another state for a fugitive from justice, the person named in the requisition as the agent of this state shall, unless a different condition is contained in his commission, be allowed as compensation from the State Treasury for his services *a mileage allowance at the same rate fixed by regulations adopted by the Commissioner of the Executive Department for Finance and Administration pursuant to KRS 44.060, plus an additional sum calculated at the rate of five cents per mile* [ten cents per mile] for the distance he travels to and from the jail of the county designated in the proclamation to the place where the fugitive is arrested, and any other necessary expenses he pays in reclaiming and returning the fugitive. If the agent is not given possession of the fugitive for reasons beyond the agent's control, he shall nevertheless be allowed the compensation prescribed by this section. Upon the return of the fugitive to the county in which the jail named in the proclamation is located, the person having him in charge shall go before a magistrate, who shall issue a mittimus to the jailer to receive the prisoner and keep him until he is discharged.

The Committee on Education reported **SB 113,** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 113, AN ACT relating to nonrenewal of limited contracts for teachers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 161.750 is amended to read as follows:

[(1) A written limited contract shall be entered into by each board of education with each teacher who is not eligible for a continuing contract as defined in KRS 161.740.]

(1) [(2)] Any teacher employed under a limited contract [and ineligible for a continuing contract] shall at the expiration of such limited contract be deemed re-employed under the provisions of KRS 161.720 to 161.810 for the succeeding school year at the same salary plus any increment or decrease as provided by the salary schedule, unless the *superintendent of schools has recommended to the board of education that the contract of the teacher not be renewed and unless the board has voted to approve said recommendation* [employing board shall give such teacher written notice on or before the fifteenth day of May of its intention not to re-employ him; upon request by the teacher, such written notice shall contain the specific reason or reasons why the teacher is not being re-employed. Such teacher shall be presumed to have accepted such employment, unless he shall notify the board of education in writing to the contrary on or before the fifteenth day of June, and a written contract for the succeeding year shall be executed accordingly].

(2) If the board of education approves the superintendent's recommendation, as provided in subsection (1) of this section, the board must present written notice to the teacher that the contract will not be renewed no later than March 31 of the school year during which the contract is in effect. Upon receipt of a request by the teacher, the board shall provide a written statement containing the specific, detailed and complete statement of grounds upon which the nonrenewal of contract is based, including, where appropriate, dates, times, names, places and circumstances.

(3) Upon failure of the employing board of education to act favorably on the recommendation of the superintendent not to renew a contract as required by subsection (1) of this section, to give written notice of

said nonrenewal as required by subsection (2) of this section or to provide the written statement of grounds required by subsection (2) of this section the teacher shall receive a contract of employment for the next school year; and, if the teacher has served the number of years as required by KRS 161.740(1)(b) or (c), said contract of employment shall be a continuing contract. Such teacher shall be presumed to have accepted such employment, unless he shall notify the board of education in writing to the contrary on or before the fifteenth day of June, and a written contract for the succeeding year shall be executed accordingly.

The Committee Amendment to **SB 113** is as follows:

Amend printed copy of Senate Bill 113 page 2, line 11, by deleting "*March 31*" and by adding in lieu thereof "*April 30*".

The Committee on Cities reported **HB 593** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 593, AN ACT relating to municipal utilities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 96.530 is amended to read as follows:

(1) Any city acquiring or constructing an electric light, heat and power plant under the provisions of KRS 96.520 shall, by ordinance, appoint a city utility commission consisting of three (3) commissioners to operate, manage and control the plant, *except that a city of the second class shall appoint seven (7) commissioners*. The utility commission shall have absolute control of the plant in every respect, including its operation and fiscal management and the regulation of rates, except that in fixing rates the commission shall be governed by the provisions of KRS 96.430, as it is made applicable to such plants by KRS 96.520, and by any ordinance enacted under that section (except that in fixing rates the commission in a city of the second or third class shall be governed by the provisions of KRS 96.535 and any ordinance enacted thereunder). The utility commission, when so appointed, shall be and hereby is declared to be a public body politic and corporate, with perpetual succession; and said body may contract and be contracted with, sue and be sued, in and by its corporate name, and have and use a corporate seal. The utility commission shall provide rules for the management of the plant, and it shall fix the number, qualifications, pay, and terms of employment of all employes needed to operate the plant. In cities of the second or third class providing civil service coverage for city employes the utility commission appointed under this section shall provide such civil service coverage for all of its employes and it shall exercise the powers and functions with respect to such employes which are vested in the city legislative body with respect to the city employes by KRS 90.380. Employes who have been in the employment of the utility commission for one (1) year immediately preceding the adoption of an order by the utility commission placing all of its employes under civil service coverage shall not be required to stand a civil service examination and they shall be eligible for all the benefits provided by such civil service coverage. Out of the revenue of the plant it shall pay operating expenses, repairs and necessary additions and provide sufficient reserve fund against any emergency that may arise. The commission shall from time to time pay to the city the surplus revenue derived from the operation of the plant as is provided in KRS 96.430 and 96.440, as they are made applicable to such plants by KRS 96.520 (except that the commission in a city of the second or third class shall pay to the city the surplus revenue derived from the operation of the plant as is provided in KRS 96.535 and any ordinance adopted thereunder). Notwithstanding the foregoing provisions the utility commission, for the purpose stated in subsection (1) of KRS 96.520, may enter into an agreement for the operation of any of its plants or other facilities.

(2) Except as provided in KRS 61.070, no person shall be appointed a member of the commission who has, within the last two (2) years before his appointment, held any city, county, state or federal office, or been a member of any committee of any political party, or who is related within the third degree to the mayor or a member of a city legislative body. The commission shall not appoint to any subordinate office that it may create any person who is related to any commissioner, to the mayor or to any member of the city legislative body. No officer or employe of the city, whether holding a paid or unpaid office, shall be eligible to be appointed as a member of said commission or to be employed by the commission in any capacity. The members of the commission shall be citizens, taxpayers, and legal voters of the city and shall not at the time of appointment be indebted to the city or be surety on the official bond of any officer of the city. If at any time during his term of office any member of the commission becomes a candidate for or is elected or appointed to any public office he shall automatically vacate his membership on the commission and another person shall be appointed in his place.

(3) The city shall pay the cost of securing bonds for the commissioners from a surety company, and each commissioner shall execute bond to be approved by the city legislative body.

(4) The city legislative body shall fix the salary to be paid each member of the commission at a sum not to exceed three hundred dollars ($300) per annum.

(5) The first commissioners appointed under this section shall be appointed one (1) for the term of one (1) year, one (1) for the term of two (2) years and one (1) for the term of three (3) years. Upon the expiration of the first terms, successors shall be appointed for a term of three (3) years. *On a seven (7) member commission not more than three (3) commissioners shall serve concurrent terms.*

The Committee Amendment to **HB 593** is as follows:

Amend printed copy of House Bill 593 page 1, line 8 by deleting "*seven (7)*" and inserting in lieu thereof "*five (5)*";

and on page 4, lines 19, 20, and 21 by striking the words, *On a seven (7) member commission not more than three (3) commissioners shall serve concurrent terms.*

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Agriculture and Natural Resources: **HB 654, HB 667, HB 697, HB 592, HB 668.**

Business Organizations and Professions: **SB 151.**

Elections and Constitutional Amendments: **HB 636, HB 648, SCR 23.**

Highways and Traffic Safety: **HB 398.**

Judiciary-Courts: **HB 596, SB 160, SB 162, HB 524.**

Judiciary-Statutes: **HB 599.**

State Government: **HB 35, HB 245, HB 249, HB 290, HB 497, HB 557, HB 565, HB 586, HB 607, HB 622, HB 624, HB 625, HB 632, HB 639, HB 643, HB 645, HB 664, HB 673, HB 689, HB 694, HB 696, HB 700, HJR 36, HJR 66, SB 147, SB 189, SB 190.**

Report of Committees (continued)

The Committee on Rules reported **SB 91, HB 349, HB 485, HB 444, HB 432** with Committee Amendments attached thereto, **HB 544** with Committee Amendment attached thereto, **SB 122, HB 364,** and **HB 261** with Committee Substitute attached thereto, have been posted for passage on March 1, 1976.

Calendar

SCR 6, SB 101 with Committee Amendment attached thereto, **SB 98, HCR 14, HB 480, HB 160** with Committee Substitute attached thereto, **HB 338** with Committee Amendments attached thereto, **HB 541, HB 546, HB 416** with Committee Amendment attached thereto, **HB 514, HB 548** with Committee Amendment attached thereto, **HB 627, HB 478, HB 488, HB 489** with Committee Amendment attached thereto, **HB 500, HB 509, HB 574, HB 129, HB 436, HB 450, HB 477, HB 510, HB 533,** and **HB 568** taken from the Calendar and ordered read at length for the second time. Representative B. Richardson moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Motions, Petitions and Communications

Representative Stephens moved that the rules be suspended for Introduction of Bills and Resolutions. Agreed.

HB 732, by Representatives Stephens, B. Richardson, A. S. Adams, Arnold, Bevins, Craddock, DeMarcus, Denham, Little, Morgan, Richards, Sale, and Siler: AN ACT relating to the Teachers' Retirement System of the State of Kentucky.

HB 733, by Representatives Pearl, Clarke, Denham, Romines, and Stephens: AN ACT relating to adoption.

HB 734, by Representatives Donnermeyer, Mann, Blandford, DeFalaise, Dietz, Isler, King, Nett, and Schmidt: AN ACT relating to health care facilities and their personnel.

HCR 74, by Representative Hardwick: A CONCURRENT RESOLUTION requesting the Department of Transportation, the Department of Commerce and the Department of Public Information to place the community of Betsy, in Wayne County, on the maps of Kentucky, and further requesting the Department of Public Information to inform all issuers of private maps to place Betsy, in Wayne County, on the maps of Kentucky issued by them.

HJR 75, by Representative Kidd: A JOINT RESOLUTION ratifying the thirteenth, the fourteenth and the fifteenth amendments to the United States Constitution.

Motions, Petitions and Communications (continued)

Representative Stephens moved that a call of the roll be taken to allow members to add their names as co-sponsors of **HB 732.** Agreed.

The following members voted to co-sponsor **HB 732: Ackerson,** A. S. Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Bevins, Blair, Blandford, Blume, Brown, Bruce, Cyrus, Dawahare, DeFalaise, DeMarcus, Denham, Deskins, Dietz, Donnermeyer, Doss, Fitzgerald, Floyd, Foster, Freeman, Gay, Gray, Hardwick, Holbrook, Hopkins, Imes, Isler, Jones, Kenton, Kidd, King, LeMaster, Mason, May, McBee, McGill, Morris, Muncy, O'Brien, Overstreet, Pearl, Priddy, Rattliff, P. Richardson, Romines, Sale, Schmidt, Stephens, J. Turner, R. Turner, Vincent, White, Wible.

The following members filed Floor Amendments to Bills and Resolutions: Representative Mason, Floor Amendment No. 2 to **HB 226;** Representative Benson, Floor Amendment No. 2 to **HB 407;** Representative B. Richardson, Floor Amendment No. 1 to **HB 499;** Representative B. Richardson, Floor Amendment No. 1 to **HB 568;** Representative Lindsay, Floor Amendment No. 1 to **HB 479.**

The following requests were made in regard to voting:

Representative Blandford requested that he be recorded as voting "nay" on **HB 280.**

Representative Burnette requested that he be recorded as voting "nay" on **HB 70.**

Representative Givhan requested that he be recorded as voting "yea" on **HB 1, HB 226, HB 251, HB 285, HB 325, HB 346, HB 362, HB 479,** and **HB 496.**

The following requests were filed with the Clerk to have their names added as co-sponsors of Bills and Resolutions: Representative Morris, **HB 732;** Representative Ackerson, **HB 476;** Representative Blythe, **HB 61.**

Orders of the Day

HB 374, with Committee Substitute attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative B. Richardson moved the adoption of the Committee Substitute for **HB 374.** Agreed.

Representative B. Richardson moved that **HB 374,** by way of Committee Substitute, be passed.

On the roll call the vote was yeas 98-Ackerson, B. Adams, A. S. Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blandford, Blume, Blythe, Boatwright, Brinkley, Brown, Bruce, Burnette, Carpenter, Clapp, Clarke, Craddock, Crupper, Cyrus, Dawahare, DeFalaise, DeMarcus, Denham, Deskins, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Floyd, Foster, Freeman, Gay, Givhan, Gray, Guenthner, Hancock, Hardwick, Head, Holbrook, Holloway, Hopkins, Hughes, Hurst, Imes, Isler, Jones, Kenton, Kidd, King, Kleier, LeMaster, Lindsay, Little, Mann, Mason, May, Maynard, McBee, McBride, McGill, Morgan, Morris, Muncy, Nett, O'Brien, Overstreet, Pearl, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Robinson, Romines, Sale, Schmidt, Siler, Stephens, Stewart, Tobin, Thomas, J. Turner, R. Turner, Vincent, Wells, White, Wible, Wooden, Wright, Yates. Nays 0.

HB 374, by way of Committee Substitute, was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **HB 374,** by way of Committee Substitute, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

SB 33, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read as length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Clarke moved the adoption of the Committee Amendment to **SB 33.** Agreed.

Representative Clarke moved that **SB 33,** as amended, be passed.

Representative Pearl moved that **SB 33,** as amended, be laid on the table.

On the roll call the vote was yeas 20-Ackerson, Bennett, Brown, Burnette, Craddock, Crupper, Denham, Dunn, Gay, Holbrook, Hughes, McGill, Nett, Pearl, Rattliff, P. Richardson, Robinson, Romines, Schmidt, White. Nays 59-B. Adams, J. Allen, W. Allen, Arnold, Bendl, Benson, Beshear, Bevins, Blair, Blandford, Blume, Boatwright, Brinkley, Bruce, Carpenter, Clarke, Cyrus, DeFalaise, DeMarcus, Deskins, Dietz, Donnermeyer, Doss, Fitzgerald, Floyd, Foster, Freeman, Givhan, Gray, Hancock, Hardwick, Imes, Isler, Jones, Kenton, King, Kleier, LeMaster, Lindsay, Little, Mason, McBee, McBride, Morgan, Morris, Muncy, Overstreet, Priddy, Richards, B. Richardson, Sale, Stephens, Stewart, Tobin, Thomas, R. Turner, Wible, Wooden, Yates.

The motion that **SB 33,** as amended, be laid on the table was rejected.

On the roll call the vote was yeas 52-Bendl, Benson, Beshear, Bevins, Blandford, Blume, Boatwright, Brinkley, Carpenter, Clarke, Cyrus, Dawahare, DeMarcus, Deskins, Dietz, Donnermeyer, Doss, Fitzgerald, Floyd, Foster, Freeman, Givhan, Gray, Hancock, Hardwick, Head, Hurst, Isler, Jones, Kenton, King, LeMaster, Little, Mann, Mason, Maynard, McBee, McBride, Morgan, Muncy, Overstreet, B. Richardson, Robinson, Sale, Siler, Stewart, Tobin, Thomas, Wells, Wible, Wooden, Yates. Nays 37-Ackerson, B. Adams, J. Allen, W. Allen, Arnold, Bennett, Blair, Brown, Bruce, Burnette, Craddock, Crupper, DeFalaise, Denham, Dunn, Gay, Guenthner, Holbrook, Holloway, Hopkins, Hughes, Imes, Lindsay, May, McGill, Morris, Nett, O'Brien, Pearl, Rattliff, Richards, P. Richardson, Schmidt, Stephens, Vincent, White, Wright.

SB 33, as amended, was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **SB 33,** as amended, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 142 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Blume moved the adoption of the following Floor Amendment No. 3 to **HB 142:**

Amend printed copy of House Bill 142 page 1, line 11 by inserting following "1974" the following: "*or 1976*";

and on line 13, by deleting "1975" and inserting in lieu thereof "*1977* [1975]".

Agreed.

Representative Blume moved that **HB 142,** as amended, be passed.

On the roll call the vote was yeas 87-Ackerson, B. Adams, A. S. Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blandford, Blume, Blythe, Boatwright, Brinkley, Brown, Burnette, Carpenter, Clapp, Clarke, Craddock, Crupper, Cyrus, Dawahare, DeMarcus, Deskins, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Floyd, Foster, Freeman, Gay, Givhan, Gray, Guenthner, Hancock, Hardwick, Head, Holbrook, Holloway, Hopkins, Hughes, Imes, Isler, Jones, Kenton, Kidd, King, Kleier, LeMaster, Lindsay, Little, Mann, Mason, May, McBride, McGill, Morgan, Morris, Muncy, Nett, O'Brien, Overstreet, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Sale, Schmidt, Siler, Stephens, Stewart, Tobin, Thomas, R. Turner, Vincent, Wells, Wible, Wooden, Wright, Yates. Nays 0.

HB 142, as amended, was passed and the title agreed to.

Representative Blume moved that the vote by which **HB 142,** as amended, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Report on Enrolled Bills

The Committee on Enrollment reported **HB 336** and **HCR 37** had been examined and found correctly enrolled. **HB 336** and **HCR 37** read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate.

HB 336 and **HCR 37** delivered to the Senate, signed by President. Ordered delivered to the Governor.

Orders of the Day (continued)

HB 370 taken from the Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Givhan moved that **HB 370** be passed.

On the roll call the vote was yeas 72-Ackerson, B. Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Bevins, Blair, Blandford, Blume, Blythe, Boatwright, Brinkley, Brown, Bruce, Burnette, Carpenter, Clarke, Crupper, Dawahare, DeFalaise, Deskins, Donnermeyer, Doss, Dunn, Fitzgerald, Floyd, Foster, Givhan, Gray, Guenthner, Hancock, Hardwick, Head, Holbrook, Holloway, Hopkins, Hughes, Hurst, Imes, Isler, Jones, Kenton, Kidd, King, Kleier, LeMaster, Lindsay, Little, Mann, Mason, May, Maynard, McBee, McBride, McGill, Morris, Muncy, O'Brien, Overstreet, Priddy, Rattliff, Richards, Romines, Sale, Schmidt, Siler, Stephens, Stewart, Tobin, Thomas, R. Turner, Wible, Wooden, Wright, Yates. Nays 2-Denham, Pearl.

HB 370 was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **HB 370** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative B. Richardson moved that consideration of all remaining Bills and Resolutions be deferred and that they retain their position in Orders of the Day. Agreed.

Announcements

Representative B. Richardson moved that the rules be suspended for Posting of Bills and Resolutions for Consideration. Agreed.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Cities: **HB 716, HB 663.**

Counties and Special Districts: **HB 670, HB 425, HB 420.**

Education: **HR 60, HR 61.**

Labor and Industry: **HB 187, HB 120, HB 542.**

Public Utilities and Transportation: **HB 706, HB 518.**

Representative Clarke moved tht the rules be suspended for the purpose of transferring a bill to another committee. Agreed.

Representative Clarke moved that **HB 671** be taken from the Committee on Appropriations and Revenue and sent to the Committee on Public Utilities and Transportation. Agreed.

Representative B. Richardson moved that the rules be suspended to allow the House to adjourn by voice vote. Agreed.

Adjournment

Representative B. Richardson moved that the House adjourn until 2:00 p.m., Monday, March 1, 1976. Agreed.

MONDAY, MARCH 1, 1976

FORTY-THIRD LEGISLATIVE DAY

The House was called to order by Speaker Kenton.

Prayer by Reverend Henry E. Baker, Broadway Baptist Church, Winchester.

The roll was called. All present except J. Turner.

Representative Isler moved that the absent member be granted leave of absence in accordance with the prevailing rules of the House. Agreed.

Representative Hughes moved that the reading of the Journal of February 27, 1976, be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HJR 76, by Representative B. Richardson: A JOINT RESOLUTION directing the Department of Education to prepare an educational accountability model for presentation to the Governor and the 1978 General Assembly.

HR 77, by Representative Arnold: A RESOLUTION honoring Ms. Sheila Greenwade, the 1976 Kentucky Dairy Princess, and recognizing Kentucky's dairy industry and the Kentucky Dairy Association.

HB 735, by Representative Clarke: AN ACT relating to banking.

HB 736, by Representative Clarke: AN ACT relating to emergency vehicles.

HB 737, by Representative B. Richardson: AN ACT relating to purchasing.

HB 738, by Representative B. Richardson: AN ACT relating to financial statements of insurance companies.

HB 739, by Representative B. Richardson: AN ACT relating to wages and hours.

HB 740, by Representative B. Richardson: AN ACT relating to the registration of motor vehicles.

HB 741, by Representative B. Richardson: AN ACT relating to motor vehicle insurance.

HB 742, by Representative Benson: AN ACT relating to consumer protection.

HB 743, by Representative Clarke: AN ACT relating to budget and financial administration.

HB 744, by Representatives Muncy, Siler, A. S. Adams, Blair, Cyrus, Dawahare, Gay and Vincent: AN ACT relating to strip mining.

HB 745, by Representative Little: AN ACT relating to school boards.

HB 746, by Representatives Tobin and Morris: AN ACT relating to controlled substances.

HB 747, by Representative Overstreet: AN ACT relating to revenue and taxation.

Senate Message

Announcing passage of **HB 26, HB 335, HB 178** with Senate Amendments, SB 83, **SB 89, SB 161, SB 187, SB 223** and **SB 144.**

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Natural Resources: **SB 211.**

Business Organizations and Professions: **SB 145.**

Education: **HB 732.**

Elections and Constitutional Amendments: **HB 726, HR 75.**

Health and Welfare: **HB 725, HB 730, HB 733, HB 734, SB 213, SB 214.**

Highways and Traffic Safety: **HB 728, HCR 74.**

Judiciary-Courts: **HB 731.**

Judiciary-Statutes: **SB 25.**

Labor and Industry: **HB 727, SB 32.**

Public Utilities and Transportation: **HB 729.**

State Government: **SB 243, SR 22, SB 171, SB 193.**

Report of Committees

The Committee on Appropriations and Revenue reported **HB 148, HB 172,** HB 173, and **HB 277** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 148, AN ACT relating to the motor vehicle usage tax.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 138.450 is amended to read as follows:
As used in KRS 138.460 and 138.470, unless the context requires otherwise:
(1) "Dealer" means any person engaged in the sale of motor vehicles at retail;
(2) "Motor vehicle" means any vehicle that is propelled by other than muscular power and that is used for transportation of persons or property over the public highways of the state, except road rollers, vehicles that travel exclusively on rails, and vehicles propelled by electric power obtained from overhead wires;
(3) "Retail price" for new *and used* motor vehicles shall be the *gross purchase* [manufacturer's suggested retail] price of the vehicle *less any trade-in or allowance given by the seller of the motor vehicle to the purchaser of such vehicle.* [with all equipment and accessories, standard and optional, and transportation charges; for used motor vehicles it shall be determined by the retail value given in the automotive reference manual prescribed by the department of revenue. In the case of used motor vehicles previously registered in this state, which are sold in this state,] *A* [a] trade-in allowance equal to the value of the vehicle taken in trade as sworn to by the seller not to exceed the fair market value of the vehicle taken in trade shall be deducted in computing the retail price of the vehicle sold.

HB 172, AN ACT relating to taxation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 139.480 is amended to read as follows:

Any other provision of this chapter to the contrary notwithstanding, the terms "sale at retail," "retail sale," "use," "storage," and "consumption," as used in this chapter do not include the sale, use, storage, or other consumption of:

(1) Locomotives or rolling stock, including materials for the construction, repair, or modification thereof, or fuel or supplies for the direct operation of locomotives and trains, used or to be used in interstate commerce;

(2) Coal for the manufacture of electricity;

(3) All energy or energy-producing fuels used in the course of manufacturing, processing, mining, or refining to the extent that the cost of the energy or energy-producing fuels used exceeds three per cent (3%) of the cost of production;

(4) Livestock of a kind the products of which ordinarily constitute food for human consumption provided the sales are made for breeding or dairy purposes and by or to a person regularly engaged in the business of farming;

(5) Poultry for use in breeding or egg production;

(6) Farm work stock for use in farming operations;

(7) Seeds, the products of which ordinarily constitute food for human consumption or are to be sold in the regular course of business, feed for livestock or poultry of a kind the products of which ordinarily constitute food for human consumption, and commercial fertilizer to be applied on land the products from which are to be used for food for human consumption or are to be sold in the regular course of business; Provided such sales are made to farmers who are regularly engaged in the occupation of tilling and cultivating the soil for the production of crops as a business, or who are regularly engaged in the occupation of raising and feeding livestock or poultry or producing milk for sale; and Provided further That such tangible personal property so sold is to be used only by those persons designated above who are so purchasing;

(8) Machinery for new and expanded industry;

(9) Farm machinery. As used in this section the term "farm machinery" means machinery used exclusively and directly in the occupation of tilling the soil for the production of crops as a business, or in the occupation of raising and feeding livestock or poultry or of producing milk for sale. The term "farm machinery" as used in this section includes machinery, attachments, and replacements therefor, *repair parts, and replacement parts* which are used or manufactured for use on, or in the operation of farm machinery and which are necessary to the operation of such machinery, and are customarily so used; but this exemption shall not include automobiles, trucks, trailers, and truck-trailer combinations.

(10) Property which has been certified as a pollution control facility as defined in KRS 224.850.

HB 173, AN ACT relating to taxation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 139.480 is amended to read as follows:

Any other provision of this chapter to the contrary notwithstanding, the terms "sale at retail," "retail sale," "use," "storage," and "consumption," as used in this chapter do not include the sale, use, storage, or other consumption of:

(1) Locomotives or rolling stock, including materials for the construction, repair, or modification thereof, or fuel or supplies for the direct operation of locomotives and trains, used or to be used in interstate commerce;

(2) Coal for the manufacture of electricity;

(3) All energy or energy-producing fuels used in the course of manufacturing, processing, mining, or refining to the extent that the cost of the energy or energy-producing fuels used exceeds three per cent (3%) of the cost of production;

(4) Livestock of a kind the products of which ordinarily constitute food for human consumption provided the sales are made for breeding or dairy purposes and by or to a person regularly engaged in the business of farming;

(5) Poultry for use in breeding or egg production;

(6) Farm work stock for use in farming operations;

(7) Seeds, the products of which ordinarily constitute food for human consumption or are to be sold in the regular course of business, feed, *seed, chemicals, and medical supplies* for livestock or poultry of a kind the products of which ordinarily constitute food for human consumption, and commercial fertilizer *and limestone* to be applied on land the products from which, *including livestock products,* are to be used for food for human consumption or are to be sold in the regular course of business; Provided such sales are made to farmers who are regularly engaged in the occupation of tilling and cultivating the soil for the production of crops as a business, or who are regularly engaged in the occupation of raising and feeding livestock or poultry or producing milk for sale; and Provided further That such tangible personal property so sold is to be used only by those persons designated above who are so purchasing;

(8) Machinery for new and expanded industry;

(9) Farm machinery. As used in this section the term "farm machinery" means machinery used exclusively and directly in the occupation of tilling the soil for the production of crops as a business, or in the occupation of raising and feeding livestock or poultry or of producing milk for sale. The term "farm machinery" as used in this section includes machinery, attachments, and replacements therefor which are used or manufactured for use on, or in the operation of farm machinery and which are necessary to the operation of such machinery, and are customarily so used; but this exemption shall not include automobiles, trucks, trailers, and truck-trailer combinations.

(10) Property which has been certified as a pollution control facility as defined in KRS 224.850.

HB 277, AN ACT relating to compensation of jurors.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 29.390 is amended to read as follows:

(1) Grand jurors and petit jurors in circuit court shall each be paid *fifteen dollars ($15.00)* [five dollars ($5.00)] per day for jury service. *Any person serving on a guarded or sequestered jury shall receive twice the daily amount paid for each day of such service.* Persons whose names are on the jury list for jury service in circuit court, or are summoned under KRS 29.280 to supply a deficiency, who appear in person in court in response to summons who do not claim exemption or ask to be relieved from jury service, shall receive *fifteen dollars ($15.00)* [five dollars ($5.00)] per day for each day they are required to be and are in attendance, even though they are not sworn or accepted for jury service.

(2) Except as the amounts which may be expended therefor may be limited by regulations issued by the executive department for finance and administration, the cost of meals, and where they are kept together over night, the cost of lodging, for all petit jurors ordered to remain together in the custody of the sheriff during the trial of any case, shall be paid by the circuit clerk out of the funds advanced by the executive department for finance and administration as provided in KRS 28.180. The clerk shall obtain a receipt for the payment of such costs which shall be included in his settlement with the executive department for finance and administration.

(3) In courts inferior to the circuit court, each juror shall be paid $1.50 for each case in which he serves, but if the same juror serves on more than two (2) juries in one (1) day he shall not be allowed a fee for the cases in excess of two (2).

(4) The fiscal court of any county may by ordinance provide that jurors in courts inferior to the circuit court be paid out of the county's general fund at a maximum rate of five dollars ($5.00) per day for jury service; provided, however, that the rate shall not be less than that set in subsection (3) of this section.

The Committee on Judiciary-Statutes reported **HB 467, HB 564, HB 599,** HB 646 and **SB 17** with the expression of opinion that the same should pass. Read at length for the first time and placed in the Calendar.

HB 467, AN ACT relating to mortgage enforcement expenses..

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 453 IS CREATED TO READ AS FOLLOWS:

In an action to enforce a mortgage, or lien under KRS 426.005 where a judgment is rendered for the sale of the property and against the defendant personally, the party attempting to enforce the mortgage or lien, if successful, shall be allowed as a part of his costs, to the extent provided for in the original mortgage, or in the case of a lien, a reasonable sum fixed by the court and the reasonable attorneys' fees incurred by the party.

HB 564, AN ACT relating to civil rights.

WHEREAS, the purpose of the Kentucky Civil Rights Act is to provide for execution within the State of the policies embodied in Federal civil rights law; and

WHEREAS, housekeeping amendments are needed to the Kentucky Civil Rights Act; to carry out policies of Federal Civil Rights Acts and recent court decisions.

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 344.150 is amended to read as follows:

There is hereby created a commission on human rights. The commission shall consist of eleven (11) members, one (1) to be appointed from each congressional district and three (3) from the state at large. The governor shall appoint all members, and shall name one (1) member as chairman. Of the eleven (11) members first appointed, three (3) shall serve for one (1) year, four (4) for two (2) years and four (4) for three (3) years. Thereafter all members of the commission shall be appointed for three (3) years, *and shall continue to serve until reappointed or replaced.* In the event of the death or resignation of a member, his successor shall be appointed to serve the unexpired term for which such member had been appointed.

Section 2. KRS 344.200 is amended to read as follows:

(1) An individual claiming to be aggrieved by an unlawful practice, a member of the commission, or the attorney general may file with the commission a written sworn complaint stating that an unlawful practice has been committed, setting forth the facts upon which the complaint is based, and setting forth facts sufficient to enable the commission to identify the persons charged (hereinafter the respondent). The commission staff or a person designated pursuant to its rules shall promptly investigate the allegations of unlawful practice set forth in the complaint and shall within five (5) days furnish the respondent with a copy of the complaint. The complaint must be filed within one hundred eighty (180) days after the alleged unlawful practice occurs.

(2) The commission *or an individual designated pursuant to its rules* shall determine within thirty (30) days after the complaint has been filed whether there is probable cause to believe the respondent has engaged in an unlawful practice. If it is determined that there is no probable cause to believe that the respondent has engaged in an unlawful practice, the commission shall issue an order dismissing the complaint and shall furnish a copy of the order to the complainant, the respondent, the attorney general, and such other public officers and persons as the commission deems proper.

(3) The complainant, within ten (10) days after receiving a copy of the order dismissing the complaint, may file with the commission an application for reconsideration of the order. Upon such application, the commission or an individual designated pursuant to its rules shall make a new determination within ten (10) days whether there is probable cause to believe that the respondent has engaged in an unlawful practice. If it is determined that there is no probable cause to believe that the respondent has engaged in an unlawful practice, the commission shall issue an order dismissing the complaint and furnishing a copy of the order to the complainant, the respondent, the attorney general, and such other public officers and persons as the commission deems proper.

(4) If the staff determines, after investigation, or if the commission determines after the review provided for in subsection (3) that there is probable cause to believe that the respondent has engaged in an unlawful practice, the commission staff shall endeavor to eliminate the alleged unlawful practice by conference, conciliation and persuasion. The terms of a conciliation agreement reached with a respondent may require him to refrain from the commission of unlawful discriminatory practices in the future and make such further provisions as may be agreed upon between the commission or its staff and the respondent. If a conciliation agreement is entered into, the commission shall issue and serve on the complainant an order stating its terms. A copy of the order shall be delivered to the respondent, the attorney general, and such other public officers and persons as the commission deems proper. Except for the terms of the conciliation agreement, neither the commission nor any officer or employe thereof shall make public, without the written consent of the complainant and the respondent, information concerning efforts in a particular case to eliminate an unlawful practice by conference, conciliation, or persuasion whether or not there is a determination of probable cause or a conciliation agreement.

(5) At the expiration of one (1) year from the date of a conciliation agreement, and at other times in its reasonable discretion, the commission staff may investigate whether the terms of the agreement have been and are being complied with by the respondent. Upon a finding that the terms of the agreement are not being complied with by the respondent, the commission shall take such action as it deems appropriate to assure compliance.

(6) At any time after a complaint is filed, the commission may file an action in the circuit court in a county in which the subject of the complaint occurs, or in a county in which a respondent resides or has his

principal place of business, seeking appropriate temporary relief against the respondent, pending final determination of proceedings under KRS 344.160, 344.190 to 344.210, and 344.230 to 344.260, including an order or decree restraining him from doing or procuring any act tending to render ineffectual any order the commission may enter with respect to the complaint. The court shall have power to grant such temporary relief or restraining order as it deems just and proper.

(7) Insofar as they are not inconsistent or in conflict with the procedure and practice provided by this chapter, the Kentucky Rules of Civil Procedure will apply to proceedings under this chapter.

Section 3. KRS 344.300 is amended to read as follows:

(1) Cities and counties are authorized to adopt and enforce ordinances, orders, and resolutions prohibiting *all forms of discrimination, including* discrimination on the basis of race, color, religion, or national origin, sex, or age, and to prescribe penalties for violations thereof, such penalties being in addition to the remedial orders and enforcement herein authorized.

(2) Cities and counties may adopt and enforce ordinances, orders and resolutions prohibiting discrimination; no ordinance, order or resolution shall attempt to exempt more transactions from its coverage than are exempted by KRS 344.365.

HB 599, AN ACT relating to comparative fault.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

In a tort action for damages on the basis of negligence, recklessness or strict liability, including statutory actions unless otherwise expressed or construed, contributory fault of the plaintiff, or, in a derivative action the person injured or killed, whether previously constituting a defense or not, does not necessarily bar recovery, but the damages are diminished in proportion to the amount of fault attributable to the plaintiff, the injured person or the decedent.

SECTION 2. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

In a tort action involving contributory fault, the court shall instruct the jury to give answers to special interrogatories, or make findings itself if there is no jury, which indicate:

(1) The amount of damages which would have been recoverable if there had been no contributory fault,

(2) The percentage of the contributory fault for each plaintiff as compared with the total fault of all of the parties to the action, and

(3) The percentage of the fault of each defendant as compared with the total fault of all of the parties to the action.

SECTION 3. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

This Act does not change common law principles of joint and several liability of joint tortfeasors. Contribution rights among multiple defendants are determined in accordance with the percentage of fault of each defendant, as found by the trier of fact. The court enters judgments on the basis of these principles and the findings made under Section 2.

SECTION 4. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

To the extent that liability insurance is available to pay a judgment entered under this Act the principle of setoff is not applied.

SECTION 5. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

This Act applies to all injuries incurred after the effective date of this Act.

SECTION 6. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

The doctrine of "last clear chance" is abolished.

HB 646, AN ACT relating to the prohibition of restraints of trade and monopolistic practices.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:
This Act shall be known and may be cited as the "Kentucky Antitrust Act."

SECTION 2. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:
It is the purpose of this Act to promote the free market system in the economy of this commonwealth by prohibiting restraints of trade and monopolistic practices inasmuch as these have the effect of decreasing competition. It is intended that, as a result, the prices of goods and services to consumers will be fairly determined by free market competition in activities affecting trade or commerce in this commonwealth, including the manufacturing, distribution, financing and service sectors of the economy. The General Assembly intends to exercise fully its power to affect and regulate commerce in order to effectuate the purposes of this Act; toward this end, an antitrust division of the department of law is hereby created for the purpose of aiding in the development of preventive and remedial antitrust programs and enforcing antitrust statutes.

SECTION 3. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:
As used in this Act:

(1) "Commodity" means any kind of real or personal property.

(2) "Documentary material" means the original and any copy of any kind of written or graphic matter, as well as objects or tangible things, such as computer tapes, magnetic tapes, computer printouts, microfilms and all other records kept by electronic, photographic or mechanical means, and further includes data and other information in a form readable by a data processing machine.

(3) "Person" means any natural person or the estate thereof, or trust or association of persons, whether formal or otherwise, or any corporation, partnership, company, or any other legal or commercial entity.

(4) "Public body" means the commonwealth or any of its public agencies, political subdivisions and municipal and other authorities.

(5) "Service" means any activity which is performed in whole or in part for financial gain, including but not limited to personal service, rental, leasing or licensing for use.

(6) "Trade or commerce" or "Trade" or "Commerce" includes all economic activity involving or relating to any commodity, service or business activity, and includes any trade or commerce directly or indirectly affecting the people of this commonwealth.

SECTION 4. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:
Every contract, combination in the form of trust and otherwise, or conspiracy, in restraint of trade or commerce of this commonwealth shall be unlawful.

SECTION 5. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:
It shall be unlawful for any person or persons to monopolize, or attempt to monopolize or combine or conspire with any other person or persons to monopolize any part of the trade or commerce in this commonwealth.

SECTION 6. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:
(1) No provision of this Act shall be construed to make unlawful:

(a) The activities of any labor organization or of individual members thereof which are directed solely to labor objectives which are legitimate under the laws of either this commonwealth or the United States;

(b) The activities of any agricultural or horticultural cooperative organization, whether incorporated or unincorporated, or of individual members thereof, to the extent necessary to achieve the aims of the enacted laws of either this commonwealth or the United States;

(c) The activities of any consumer organization, whether incorporated or unincorporated, or of individual members thereof which are directed solely to consumer objectives which are legitimate under the laws of either this commonwealth or the United States.

(2) This Act shall not apply to activities authorized or approved under any federal or state regulatory scheme to the extent that such regulatory law as applied to these activities is so comprehensive that enforcement of this Act would be either unnecessary to effect the purposes of this Act, in light of the existing regulatory structure, or disruptive of that regulatory structure due to a plain repugnancy between this Act and the regulatory provisions. Regulatory approval which does not include consideration of anticompetitive effects of any activity shall not exclude such activity from the provisions of this Act.

SECTION 7. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:
(1) A commonwealth attorney with prior approval of the attorney general may investigate suspected violations of this Act occurring in the county for which he was elected and may institute such criminal and civil injunctive proceedings as are hereinafter provided for such violations of this Act.

(2) The attorney general shall investigate suspected violations of this Act and may institute such proceedings as are hereinafter provided for violations of this Act. The commonwealth attorney in the county in which any such proceeding is instituted or pending shall cooperate with and assist the attorney general in such proceeding.

SECTION 8. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

(1) Whenever the attorney general believes or has reason to believe that a person has engaged in, is engaging in, or is about to engage in any act or practice declared to be unlawful by this Act, or when he believes it to be in the public interest that an investigation should be made to ascertain whether a person in fact has engaged in, is engaging in or is about to engage in, any act or practice declared to be unlawful by this Act, he may execute in writing and cause to be served upon any person who is believed to have information, documentary material or physical evidence relevant to the alleged or suspected violation, an investigative demand requiring such person to furnish, under oath or otherwise, a report in writing setting forth the relevant facts and circumstances of which he has knowledge , or to appear and testify, or to produce relevant documentary material or physical evidence for examination, at such reasonable time and place as may be stated in the investigative demand, concerning the subject matter of the investigation. Provided, however, that no person who has a place of business in Kentucky shall be required to appear or present documentary material or physical evidence outside the county where he has his principal place of business within the commonwealth.

(2) The power to issue investigative demands shall not abate or terminate by reason of the bringing of any action or proceeding under this Act. The attorney general may issue successive investigative demands to the same person in order to obtain additional information pertinent to an ongoing investigation.

(3) An investigative demand may be served by (a) delivering a duly executed copy to the person to be served, or if the person is not a natural person, to its principal place of business in this commonwealth; or (b) mailing by certified mail, return receipt requested, a duly executed copy addressed to the person to be served at his principal place of business in this commonwealth, or if he has no place of business in this commonwealth, to his principal office.

(4) At any time before the return date specified in an investigative demand or within twenty (20) days after the investigative demand has been served, whichever period is shorter, a petition to extend the return date, or to modify or set aside the demand, stating good cause, may be filed in the circuit court where the person served with the demand resides or has his principal place of business in the Franklin Circuit Court.

(5) Any person required to attend and give testimony or to submit documentary material or physical evidence pursuant to this section shall be entitled to retain, or on payment of a reasonable charge to procure, a copy of any document he produces and of his own statements as transcribed. Any such person may be accompanied and advised by counsel.

SECTION 9. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

(1) To accomplish the objectives and to carry out the duties prescribed by this Act, the attorney general, in addition to other powers conferred upon him by this Act, may issue subpoenas to any person, administer an oath or affirmation to any person, or conduct hearings in aid of any investigation or inquiry, provided that information obtained by and materials supplied to the attorney general pursuant to an investigative demand or subpoena shall not be made public or disclosed by the attorney general beyond the extent necessary for law enforcement purposes in the public interest.

(2) Any person may apply to a circuit court for an appropriate order to protect such person from any unreasonable investigative action taken pursuant to this Act.

SECTION 10. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

Whenever the attorney general believes or has reason to believe that a person has engaged in, or is engaging in, any practice declared by this Act to be unlawful and whenever the attorney general has reason to believe that information will not be obtainable pursuant to this Act during the course of any investigation, he may apply to a circuit court ex parte for an order impounding any documentary material which is material to the practice under investigation. Such motion shall state in writing the grounds which the attorney general believes constitute reason to believe a violation of this Act has occurred. The circuit court shall specify by order the length of time for copying or inspection of such documentary material.

SECTION 11. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

Any natural persons who shall neglect or refuse to attend and give testimony or to answer any lawful inquiry or to produce documentary material, if in his power to do so, in obedience to an investigative demand or subpoena pursuant to this Act, shall be guilty of a class A misdemeanor and upon conviction thereof by a court of competent jurisdiction shall be punished by a fine of not more than five thousand dollars ($5,000), or by imprisonment for not more than one (1) year, or both such fine and imprisonment. Any natural person who commits perjury or false swearing in response to an investigative demand or subpoena pursuant to this Act shall be subject to the provisions of KRS 523.020-040.

SECTION 12. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

(1) If, in any investigation brought by the attorney general pursuant to this Act, any individual shall refuse to attend or to give testimony or to produce documentary material or to answer a written interrogatory in obedience to an investigative demand or subpoena or under order of court on the ground that the testimony or material required of him may tend to incriminate him, that person may be ordered to attend and to give testimony or to produce documentary material or to answer the written interrogatory, or to do an applicable combination of these. The order as aforesaid shall be an order of court given after a hearing in which the attorney general has established a need for a grant of immunity, as hereinafter provided.

(2) The attorney general may petition the circuit court of the county in which the investigative demand is returnable for an order as described in subsection (1) of this section, which petition may be joined in by the commonwealth attorney. Such petition shall set forth the nature of the investigation and the need for the immunization of the witness.

(3) Testimony so compelled shall not be used against the witness as evidence in any criminal proceeding against him in any court. However, the grant of immunity shall not immunize the witness from civil liability arising from the transactions about which testimony is given, and he may nevertheless be prosecuted or subjected to penalty or forfeiture for any perjury, false swearing or contempt committed in answering or in failing to answer or in producing evidence or failing to do so in accordance with the order. If a person refuses to testify after being granted immunity from prosecution and after being ordered to testify as aforesaid, he may be adjudged in civil contempt by a court of competent jurisdiction and committed to the county jail until such time as he purges himself of contempt by testifying, producing documentary material or presenting written answers as ordered. The foregoing shall not prevent the attorney general from instituting other appropriate contempt proceedings against any person who violates any of the above provisions.

SECTION 13. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

It shall be the duty of all officials of this commonwealth and its public bodies, their deputies, assistants, clerks, subordinates or employees, to render and furnish to the attorney general when so requested, all information and assistance in their possession or within their power.

SECTION 14. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

(1) Whenever the attorney general believes or has reason to believe that any person is using, has used or is about to use any method, act or practice declared by this Act to be unlawful, and that proceedings hereunder would be in the public interest, he may immediately move in the name of the commonwealth in a circuit court for a restraining order or temporary or permanent injunction to prohibit the use of such method, act or practice. The action may be brought in the circuit court of the county in which such person resides or has his principal place of business or in the circuit court of the county in which the method, act or practice declared by this Act to be unlawful has been committed or is about to be committed, or with consent of the parties may be brought in the Franklin Circuit Court.

(2) Upon application of the attorney general, a restraining order shall be granted whenever it reasonably appears that any person will suffer immediate harm, loss or injury from a method, act or practice prohibited by this Act. If the defendant moves for the dissolution of a restraining order issued under this section, the court shall hold a hearing within five business days of the date of service of the defendent's motion to dissolve, unless a delay in hearing the cause is requested by, or otherwise caused by the defendant. If such a hearing is not held within five business days, the restraining order will automatically be dissolved.

(3) In order to obtain a temporary or permanent injunction in an action brought by the attorney general or the commonwealth attorney, it shall not be necessary to allege or prove that an adequate remedy at law does not exist. Further, it shall not be necessary to allege or prove that irreparable injury, loss or damage will result if the injunctive relief is denied.

(4) The commonwealth attorney with prior approval of the attorney general, may institute and prosecute actions hereunder in the same manner as provided for the attorney general; provided that if an action is prosecuted by a commonwealth attorney alone, he shall make a full report thereon to the attorney general, including the final disposition of the matter.

(5) Any person may institute proceedings for injunctive relief, temporary or permanent, as provided in subsection (1) of this section, against threatened loss or damage to his property or business by a violation of this Act. A temporary injunction in actions brought by persons other than the attorney general or commonwealth attorney may be issued upon a showing that the danger of irreparable loss or damage is immediate. It shall be within the court's discretion whether or not to require a bond against damages for an injunction. The plaintiff, if successful, shall be awarded reasonable attorney's fees, filing fees, and reasonable costs of the suit. Reasonable costs for the suit shall include but not be limited to the expenses of discovery and document reproduction.

(6) In any action for damages under this Act in which a court finds that a class action is maintainable pursuant to Rule 23.02(3) of the Kentucky Rules of Civil Procedure, and in which the cost of individual notice to all members who can be identified through reasonable effort would exceed the damages of any one member, the court may allow notice by publication in order to satisfy the notice requirements of CR 23.03(2).

SECTION 15. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

(1) Any person or public body who shall be injured in his business or property by reason of a violation of the provisions of this Act may sue therefor and shall recover threefold the damages sustained by him, together with reasonable attorneys' fees, filing fees and reasonable costs of suit. Reasonable cost of suit shall include, but not be limited to, the expenses of discovery and document reproduction.

(2) The attorney general shall be permitted to bring suit under this Act, and in proper federal court for violations of the federal antitrust laws or of both this Act and the federal antitrust laws, to recover treble damages and secure other proper relief, on behalf of this commonwealth and the other public bodies of this commonwealth or of any of the public bodies of this commonwealth that have been injured.

(3) The attorney general shall be permitted to bring suit under this Act, and in a proper federal court for violations of the federal antitrust laws or of both this Act and the federal antitrust laws, to recover damages and secure other proper relief:

(a) as parens patriae of the citizens and residents of this commonwealth, for damages personally sustained by them or alternatively in the discretion of the court if it finds that the interests of justice so require, as representative member of the class consisting of the citizens and residents of this commonwealth who have been personally injured; and

(b) as parens patriae, respecting damages to the general economy of this commonwealth.

(4) In any action brought under either subsection (2) or (3) of this section or under both of them, the attorney general may recover aggregate damages sustained by the public bodies and by the citizens and residents of this commonwealth, as respectively their interests shall appear in the case, without separately proving the claims of each of them; and his proof of such damages may be based upon statistical sampling methods, the pro rata allocation of excess profits to sales or other transactions occurring wholly or partially within this commonwealth, or such other reasonable system of estimating aggregate damages as the court in its discretion may permit.

(5) In any action brought under either subsection (2) or (3) of this section or under both of them, whenever the attorney general receives funds in connection therewith, he shall pay the following into the state treasury for the use of the "Antitrust Trust and Agency Account:"

(a) An amount attributable to the recovery of the commonwealth and its public agencies, including the amount of any recovery pursuant to subsection (3)(b) of this section; and

(b) The greater of

(i) any amount awarded to the attorney general as attorneys' fees or

(ii) an amount equal to the expenses and cost of investigation, litigation and fund administration attributable to the case.

The attorney general may distribute, allocate or otherwise pay out the remainder of funds received, in accordance with rules and regulation promulgated by him so as to afford the citizens and residents and the public bodies of this commonwealth (other than the commonwealth and its public agencies) a reasonable opportunity individually to secure the pro rata portions of said remainder which are attributable to these respective claims for damages before the same is paid into the general fund of the state treasury for the overall benefit of the citizens, residents and public bodies of this commonwealth.

SECTION 16. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

Upon a violation of this Act by any corporation or association organized under the laws of this commonwealth, or upon failure of such corporation or association to comply with the terms of a final judgment or decree rendered by a court of this commonwealth for a violation of the provisions of this Act, or to comply with a consent judgment or decree rendered by a court of this commonwealth concerning an alleged violation of this Act, the attorney general may institute proceedings in the circuit court having jurisdiction over the corporation or association for the forfeiture of charter rights, franchises, privileges and powers, and for the dissolution of the corporation or association, or for the suspension of the privileges to conduct business within this commonwealth, and for civil penalties. The court, with due consideration to all relevant factors, including relevant public interest and competitive and economic factors, may in its discretion order dissolution, suspend the privilege to conduct business for a specified period, or provide other appropriate relief, including the imposition of civil penalties. A dissolution pursuant to this section shall be conducted under the supervision of the circuit court in accordance with voluntary dissolution of the particular type of corporation or association.

SECTION 17. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

Upon a violation of this Act by a foreign corporation or association exercising the privilege of conducting business within this commonwealth, or upon failure of such corporation to comply with the terms of a final judgment or decree rendered by a court of this commonwealth issued for a violation of the provisions of this Act, or to comply with a consent judgment or decree rendered by a court of this commonwealth concerning an alleged violation of this Act, the attorney general may institute appropriate proceedings for the revocation or suspension of franchises, privileges, or powers connected with doing business within this commonwealth, and for civil penalties. The court, in its discretion, and with due consideration of all relevant factors, including relevant public interest and competitive and economic factors, may order the revocation or suspension of the privilege to conduct business for a specified period or provide other appropriate relief, including the imposition of civil penalties. A revocation shall have the same effect as a failure to qualify to do business in this commonwealth.

SECTION 18. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

Upon commencement of any civil action by a person, other than the attorney general, for violation of this Act, the clerk of the court shall mail a copy of the complaint or other initial pleading to the attorney general and, upon entry of any judgment or decree in the action, shall mail a copy of such judgment or decree to the attorney general.

SECTION 19. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

The attorney general may, from time to time, promulgate rules and regulations prescribing procedures for the implementation and effectuation of his powers and authority under this Act. Such rules and regulations may include, but need not be limited to, procedures for the dispositions of funds collected under Section 15, and procedures for the granting of a consent judgment and decree under this Act.

SECTION 20. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

A final judgment or decree heretofore or hereafter rendered in any civil or criminal proceeding brought by or on behalf of this commonwealth under the provisions of this Act to the effect that a defendant has violated said Act shall be prima facie evidence against such defendant in an action brought under Section 15 of this Act that said defendant used or employed a method, act or practice declared unlawful by this Act.

SECTION 21. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

All money received by the commonwealth from July 1, 1976, as a result of actions by the attorney general pursuant to this Act or to the federal antitrust laws shall be placed in a separate fund by the state treasurer, to be known as the "Antitrust Trust and Agency Account," and shall be used solely for the payment of all expenses incurred by the antitrust division in connection with antitrust enforcement activities. All moneys in such separate fund, from time to time, are hereby specifically appropriated to the department of law and may be expended for the aforesaid purpose; provided, however, that if at the end of any fiscal year the balance in the antitrust enforcement fund should exceed one million dollars ($1,000,000.00) the state treasurer shall thereupon withdraw such excess from the antitrust enforcement fund and deposit same in the general fund.

SECTION 22. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

Any action brought to enforce the provisions of this Act shall be barred unless commenced within four (4) years after the cause of action arose, or if the cause of action is based upon a conspiracy in violation of this Act, within four (4) years after the plaintiff discovered, or by the exercise of reasonable diligence should have discovered, the facts relied upon for proof of the conspiracy. For purposes of this section, a cause of action for a continuing violation is deemed to arise at any time during the period of such violation.

SECTION 23. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

Whenever any civil or criminal proceeding shall be commenced by the commonwealth to prevent, restrain, or punish a violation of this Act, but not including an action brought by the commonwealth under Section 10 of this Act, the running of the statute of limitations in respect of every private right of action arising under this Act and based in whole or in part on any matter complained of in said proceeding shall be suspended during the pendency thereof and for one (1) year thereafter, provided, however, that whenever the running of the statute of limitations in respect of a cause of action arising under either Sections 14(5) or 15(1) or both shall be suspended hereunder, any action to enforce such cause of action shall be forever barred unless commenced either within the period of suspension or within four (4) years after the cause of action accrued, whichever is later.

SECTION 24. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:
The remedies provided in this Act shall be cumulative.

SECTION 25. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:
The attorney general may cooperate with and coordinate the enforcement of this Act with officials of the federal government and the several states, including but not limited to the sharing of information and evidence obtained in accordance with Sections 8, 9, and 12 of this Act.

SECTION 26. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:
This Act shall be construed in harmony with ruling judicial decisions based on comparable federal antitrust statutes insofar as practicable. The provisions of this Act shall be interpreted to supersede the jurisdiction of all state regulatory agencies, commissions and bodies except where there is a plain repugnancy between this Act and the regulatory scheme in issue. Such repugnancy exists only where the regulatory scheme is so pervasive that it indicates the General Assembly's intent to substitute governmental supervision for the regulatory effects of competition.

SECTION 27. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:
(1) In addition to injunctive relief authorized pursuant to subsection (1) of Section 14, any person who violates this Act may be liable for a civil penalty in a suit by the attorney general or a commonwealth attorney of not more than the greater of fifty thousand dollars ($50,000) or two hundred dollars ($200) per day for each and every day of said violation. Such award granted in a suit by the attorney general shall be paid into the state treasury for the use of the "Antitrust Trust & Agency Account."

(2)(a) Any person or corporation, or any officer or agent thereof, who shall knowingly violate Section 4 or Section 5 of this Act or aid in or advise such violation, or who, as principal, manager, director, stockholder owning ten percent (10%) or more of the aggregate outstanding capital stock of all classes of the corporation, agent, servant or employe, knowingly does any act comprising a part of such violation, is guilty of a class D felony and shall be punished by not more than five (5) years imprisonment or a fine of the greater of fifty thousand dollars ($50,000) or two hundred dollars ($200) per day for each and every day of said violation, or both imprisonment and fine.

(b) All criminal prosecutions for violation of this Act shall be brought in the county in which said violation occurred by the attorney general, or upon approval of the attorney general, by the commonwealth attorney for the county in which the violation occurred.

(c) All funds collected by the courts pursuant to this section shall be deposited with the attorney general to be deposited in the state treasury to the use of the "Antitrust Trust and Agency Account."

(d) The attorney general and the commonwealth attorneys may petition the court for entry of a consent decree dismissing any criminal prosecution hereunder, but the court shall review the proceeding to determine whether entry thereof is in the public interest.

SB 17, AN ACT relating to inspections.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 15 is created to read as follows:
As used in this Act unless the context requires otherwise:

(1) "Inspection" means any regular, on-site investigation periodically conducted, or any request for information periodically solicited in lieu of an on-site investigation, by or on behalf of any public agency for the purpose of determining whether to award, renew, alter, suspend or revoke a license, permit, accreditation or rating of a public or private organization, or of any property employed by a public or private organization in conducting its business, in the Commonwealth. The term shall not include special investigations conducted by law enforcement officers or grand juries, or, upon specific complaint, by public agencies with competent jurisdiction of the subject matter of the complaint, or by members of legislative bodies.

(2) "Duplicative inspection" or "an inspection that duplicates" means one of two or more inspections that are conducted at different times during the same calendar year and that inquire into the same condition of the premises of, or business conducted by, the same public or private organization.

(3) "Inspecting agency" means any agency of the state government or of a political subdivision of the state that conducts inspections within the Commonwealth.

(4) "Conflicting standard" or "a standard that conflicts" means one of two or more standards relating to the quality of a public or private organization, or of the business conducted by such organization, or of property used by such organization in conducting its business, that are employed in the same inspection or in duplicative inspections and which cannot be met simultaneously.

Section 2. A new section of KRS Chapter 15 is created to read as follows:

(1) No inspecting agency shall conduct an inspection or employ a standard relating to a condition over which another inspecting agency or the federal government has primary jurisdiction, except under an agreement with the entity having primary jurisdiction, or an order of the Attorney General, adopted under this Act.

(2) If a question of primary jurisdiction over a condition involves two or more governmental agencies, the agencies shall attempt to determine which of the agencies has primary jurisdiction over the condition under existing law. If the inspecting agencies cannot determine which agency has primary jurisdiction, they shall immediately refer the question to the Attorney General, who shall determine, based upon existing law, which of the agencies has primary jurisdiction.

Section 3. A new section of KRS Chapter 15 is created to read as follows:

(1) Effective July 1, 1978, no inspecting agency shall conduct an inspection that duplicates an inspection conducted by another inspecting agency or by the federal government.

(2) Inspecting agencies may enter into agreements among themselves and with the federal government to conduct duplicative inspections jointly, at the same time, where it is shown that the public health, safety and welfare require the supervision of more than one inspecting agency, or to designate one person or body to conduct an inspection on their behalf. All such agreements shall be in writing and shall be filed with the Attorney General.

(3) If inspecting agencies cannot agree among themselves or with the federal government on the method for consolidating duplicative inspections, they shall immediately refer the issue to the Attorney General. The Attorney General shall determine the method for consolidating the inspections or otherwise eliminating the duplication, subject to the following requirements:

(a) No inspecting agency shall conduct an inspection that duplicates an inspection conducted by the federal government;

(b) No local governmental inspecting agency shall conduct an inspection that duplicates an inspection conducted by an inspecting agency of the state government;

(c) No city inspecting agency shall conduct an inspection that duplicates an inspection conducted by an inspecting agency of the county in which it is located; an inspection conducted by a local governmental inspecting agency;

(d) If two or more inspecting agencies of the same level or unit of government have duplicative inspections, only the inspecting agency with primary jurisdiction over the condition inspected, as determined under Section 2 of this Act, shall conduct the inspection, unless the inspecting agency with primary jurisdiction is prohibited from conducting the inspection by subsection (a), (b), or (c) of this subsection.

(4) In determining the method for consolidating inspections under subsection (3) of this Section, the Attorney General shall select the method that he determines will best protect the public health, safety and welfare, taking into consideration the relative qualifications and past performance of the inspecting agencies involved.

Section 4. A new section of KRS Chapter 15 is created to read as follows:

(1) Effective January 1, 1977, no inspecting agency shall employ in its inspections any standard that conflicts with any other standard it employs in the same inspection or with standards employed by another inspecting agency or by the federal government.

(2) Inspecting agencies with conflicting standards may enter into agreements among themselves and with the federal government to eliminate conflicts among their standards. All such agreements shall be in writing and shall be filed with the Attorney General.

(3) If inspecting agencies with conflicting standards cannot agree among themselves or with the federal government on the method for eliminating conflicts among standards, they shall immediately refer the issue to the Attorney General. The Attorney General shall determine the method for resolving the conflict subject to the following requirements:

(a) No inspecting agency shall employ a standard that conflicts with a standard employed by the federal government;

(b) No local governmental inspecting agency shall employ a standard that conflicts with a standard employed by an inspecting agency of the state government;

(c) No city inspecting agency shall employ a standard that conflicts with a standard employed by an inspecting agency of the county in which it is located;

(d) If two or more inspecting agencies of the same level or unit of government have conflicting standards, only the standard of the inspecting agency with primary jurisdiction over the condition governed by the standard, as determined under Section 2 of this Act, shall be employed, unless the inspecting agency with primary jurisdiction is prohibited from employing the standard by subsection (a), (b), or (c) of this subsection.

(4) In determining the method for eliminating conflicts among standards under subsection (3) of this Section, the Attorney General shall select the method that he determines will best protect the public health, safety and welfare.

Section 5. A new section of KRS Chapter 15 is created to read as follows:

(1) Any person aggrieved by a determination of the Attorney General under Section 2, 3 or 4 of this Act may appeal the determination to the Franklin Circuit Court or to the circuit court of the county in which the appellant resides. The court, sitting without a jury, shall dispose of the appeal in a summary manner, except as provided in subsection (2) of this section, being limited to determining whether:

(a) The Attorney General acted without or in excess of his powers;

(b) The determination is in conformity with this Act; and

(c) The findings of fact support the determination.

(2) The circuit court, in its discretion, may make further findings of fact and allow the introduction of proof by the interested parties.

(3) The court shall enter its findings on the order book as a judgment of the court.

Section 6. A new section of KRS Chapter 15 is created to read as follows:

(1) If any inspecting agency conducts or threatens to conduct an inspection, or employs or threatens to employ a standard, in violation of this Act, the Attorney General, on his own initiative or upon a sworn complaint with good cause shown by any person aggrieved by the alleged violation, shall apply to the Franklin Circuit Court or to the circuit court of the county in which the alleged violation occurred or is likely to occur for injunctive relief against the inspecting agency.

(2) Any person aggrieved by an inspection conducted or about to be conducted, or by the employment of or threat to employ a standard, in violation of this Act, may file a sworn complaint with the Attorney General or may apply to the Franklin Circuit Court or the circuit court of the county in which the alleged violation occurred or is likely to occur for injunctive relief against the inspecting agency.

Section 7. A new section of KRS Chapter 15 is created to read as follows:

All sections of the Kentucky Revised Statutes in conflict with this Act are repealed to the extent that they are inconsistent with this Act.

Section 8. During the interim between the 1976 and 1978 regular sessions of the General Assembly, the Secretary of the Executive Cabinet, with the assistance of the Executive Department for Finance and Administration, shall conduct a study to determine the impact of this Act on inspecting agencies, including any problems that may be encountered in consolidating or otherwise eliminating duplicative inspections under this Act. The Secretary shall conduct such study in consultation with inspecting agencies and with organizations that are subject to duplicative inspections. The Secretary shall periodically report his findings during the interim to the Legislative Research Commission for transmittal to the appropriate interim committees and shall submit his final report and recommendations to the members of the General Assembly prior to the 1978 regular session.

Section 9. The provisions of this Act relating to duplicative inspections, including the provisions of Section 7 as related to duplicative inspections, shall become effective July 1, 1978.

The Committee on Rules reported **HB 160** with Committee Substitute attached thereto, **HB 260** with Committee Amendment attached thereto, **HB 338** with Committee Amendments attached thereto, **HB 416** with Committee Amendment attached thereto, **HB 436, HB 450, HB 478, HB 480, HB 488, HB 489** with Committee Amendment attached thereto, **HB 509, HB 514, HB 533, HB 541, HB 548** with Committee Amendment attached thereto, **HB 568, HB 574, HB 627, SB 98, SB 101** with Committee Amendment attached thereto, and **SCR 6** have been posted for passage in Orders of the Day, March 2, 1976.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Appropriations and Revenue: **HB 674, HB 675, HB 676, HB 677, HB 678,** HB 695, **HB 698, HB 699, HB 713, HB 547, HB 591.**

Business Organizations and Professions: **HB 28, HB 371, HB 559, HB 584, HB 644, HB 651, HB 561.**

Education: **HB 640, HB 705, HB 649, HB 732.**

Health and Welfare: **SB 174, HB 536, HB 309, HB 623.**

Judiciary-Statutes: **HB 642, HB 661, HB 681, SB 17.**

Calendar

HB 11 with Committee Amendment attached thereto, **HB 447, HB 455, HB 517, HB 549, HB 558** with Committee Amendments attached thereto, **HB 563, HB 569, SB 28, SB 99, SB 119, SB 141, SB 167, SB 113** with Committee Amendment attached thereto, and **HB 593** with Committee Amendment attached thereto, taken from the Calendar and ordered read at length for the second time. Representative B. Richardson moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Motions, Petitions and Communications

Representative J. Allen moved the adoption of the following Legislative Citation No. 33:

The House of Representatives of the Commonwealth of Kentucky hereby honors the Floyd County Emergency and Rescue Squad. This body commends the faithful and devoted members of the squad for their unselfish service to the people of Eastern Kentucky, the Commonwealth and surrounding areas in times of emergencies, tragedies and crises. (Sponsored by Representative J. Allen)

Agreed.

Representative Stephens moved that the rules be suspended for the purpose of posting **HB 732** for Committee consideration. Agreed.

The following members filed floor amendments to Bills and Resolutions: Representative Hughes, Floor Amendment No. 1 to **HB 558**; Representative Morris, Floor Amendment No. 1 to **HB 456**; Representative Clarke, Floor Amendment No. 1 to **HB 251**; Representative DeMarcus, Floor Amendment No. 3 to the Committee Substitute for **HB 122**; Representative Morris, Floor Amendment No. 1 to **HB 574.**

Representative Arnold moved the adoption of the following **HR 77:**

HR 77, A RESOLUTION honoring Ms. Sheila Greenwade, the 1976 Kentucky Dairy Princess, and recognizing Kentucky's dairy industry and the Kentucky Dairy Association.

WHEREAS, Ms. Sheila Greenwade has been selected Kentucky's Dairy Princess; and

WHEREAS, this lovely young lady will carry out her duties with grace and poise and will continue to be a credit to her state, her community, and her family as well as to the Kentucky dairy industry; and

WHEREAS, the dairy industry is vital to Kentucky's economy; and

WHEREAS, the Kentucky Dairy Association works in behalf of the state's dairy industry and wisely recognizes that the future of Kentucky rests in the young people of the state as exemplified by Ms. Greenwade.

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That Ms. Sheila Greenwade be given the privilege of the floor this day and be allowed to address the House of Representatives for a period of three (3) minutes.

Section 2. That the clerk of the House be directed to send a copy of this resolution to Ms. Sheila Greenwade and a copy to the Kentucky Dairy Association.

HR 77 was adopted by voice vote.

Representative Overstreet moved that **HB 615** be withdrawn. Agreed.

Representative Maynard moved that **HB 153** be withdrawn. Agreed.

Representative Maynard moved that **HB 238** be withdrawn. Agreed.

Representative Sale moved that **HB 404** be withdrawn. Agreed.

Representative Cooper requested that he be recorded as voting "yea" on **HB 374** and **HB 142.**

Orders of the Day

HB 1, with Committee Amendments attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Blandford moved the adoption of the Committee Amendment No. 2 to **HB 1.** Agreed.

Representative Blandford moved that **HB 1,** as amended, be passed.

On the roll call the vote was yeas 81-Ackerson, B. Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blandford, Blume, Blythe, Boatwright, Brinkley, Brown, Bruce, Burnette, Carpenter, Clapp, Craddock, Crupper, Cyrus, Dawahare, Deskins, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Foster, Freeman, Givhan, Gray, Guenthner, Hancock, Head, Holbrook, Holloway, Hughes, Hurst, Imes, Isler, Jones, Kenton, Kidd, King, Kleier, LeMaster, Lindsay, Little, Mann, Mason, May, Maynard, McBee, McBride, McGill, Morgan, Morris, Muncy, Nett, O'Brien, Priddy, Rattliff, Richards, B. Richardson, Romines, Sale, Schmidt, Siemens, Stephens, Stewart, Tobin, Thomas, Wells, Wible, Wooden, Wright, Yates. Nays 10-A. S. Adams, DeFalaise, DeMarcus, Denham, Hopkins, Overstreet, Pearl, Robinson, R. Turner, Vincent.

HB 1, as amended, was passed.

Representative Blandford moved the adoption of the following Title Amendment to **HB 1:**

Amend printed copy of House Bill 1, title amendment, delete the title "An Act relating to the sale of livestock and grain" and insert in lieu thereof the following title "AN ACT relating to liens".

The Title Amendment to **HB 1** was adopted.

Representative Blandford moved that the vote by which **HB 1,** as amended, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 479 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lindsay moved the adoption of the following Floor Amendment No. 1:

Amend printed copy of House Bill 479 by deleting the word "magistrate" and inserting in lieu thereof the word "court" in the following places:

on page 1, line 7;

on page 1, line 9;

on page 1, line 13;

on page 1, line 16;

and on page 1, line 20, by deleting the words "a magistrate or" and inserting in place thereof the word "the";

and on page 2, line 2, by deleting the words "magistrate or";

and on page 2, line 2, by deleting the word "give" and inserting the word "given";

and on page 2, line 3, by deleting the words "magistrate or";

and on page 2, line 8, by deleting the word "or";

and on page 2, line 9, by deleting the word "magistrate";

and on page 2, line 10, by deleting the words "or magistrate";

and by deleting the word "magistrate" and inserting in place thereof the word "court" in the following places:

on page 2, line 11;

on page 2, line 14;

on page 2, lines 19 and 20;

and on page 2, line 20, by deleting the last word of the line, "or";

and on page 2, line 21, by deleting the word "magistrate";

and on page 2, line 21, by deleting the words "or magistrate";

and on page 3, line 13, by deleting the words "a magistrate" and inserting in place thereof the words "the court";

and on page 3, line 21, by deleting the word "magistrate" and inserting in place thereof the word "court";

and on page 4, line 15, by deleting the words "magistrate or";

and on page 4, line 23, by deleting the words "or magistrate";

and on page 4, line 26, by deleting the words "or magistrate".

Agreed.

Representative Lindsay moved that **HB 479,** as amended, be passed.

On the roll call the vote was yeas 93-Ackerson, B. Adams, A. S. Adams, J. Allen, W. Allen, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blandford, Blume, Blythe, Boatwright, Brinkley, Brown, Bruce, Burnette, Carpenter, Clapp, Clarke, Craddock, Crupper, Cyrus, Dawahare, DeFalaise, DeMarcus, Denham, Deskins, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Floyd, Foster, Freeman, Gay, Givhan, Gray, Guenthner, Hancock, Hardwick, Head, Holbrook, Holloway, Hopkins, Hughes, Hurst, Imes, Isler, Jones, Kenton, Kidd, King, Kleier, LeMaster, Lindsay, Little, Mann, Mason, May, Maynard, McBee, McBride, McGill, Muncy, Nett, O'Brien, Overstreet, Pearl, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Robinson, Romines, Sale, Schmidt, Siemens, Siler, Stephens, Stewart, Tobin, R. Turner, Vincent, Wells, Wible, Wooden, Wright, Yates. Nays 0.

HB 479, as amended, was passed and the title agreed to.

Representative Lindsay moved that the vote by which **HB 479** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 171, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Wooden moved the adoption of the Committee Amendment to **HB 171.** Agreed.

Representative Wooden moved that **HB 171,** as amended, be passed.

On the roll call the vote was yeas 44-Ackerson, A. S. Adams, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blandford, Blume, Blythe, Brinkley, Brown, Bruce, Carpenter, Clarke, DeFalaise, Deskins, Donnermeyer, Doss, Dunn, Fitzgerald, Givhan, Gray, Guenthner, Hancock, Hurst, Kenton, Kidd, Kleier, LeMaster, Mann, Maynard, McGill, Priddy, Richards, B. Richardson, P. Richardson, Schmidt, Siemens, Stephens, Stewart, Wible, Wooden. Nays 45-J. Allen, Blair, Boatwright, Burnette, Clapp, Cooper, Craddock, Crupper, Cyrus, DeMarcus, Denham, Floyd, Foster, Freeman, Gay, Hardwick, Head, Holbrook, Holloway, Hopkins, Hughes, Imes, King, Lindsay, Little, Mason, May, McBee, McBride, Muncy, Nett, O'Brien, Overstreet, Pearl, Rattliff, Robinson, Sale, Siler, Tobin, Thomas, R. Turner, Vincent, Wells, Wright, Yates.

HB 171, as amended, was defeated.

HB 299, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Holbrook moved the adoption of the Committee Amendment to **HB 299.** Agreed.

Representative Holbrook moved that **HB 299,** as amended, be passed.

On the roll call the vote was yeas 86-Ackerson, B. Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blandford, Blume, Boatwright, Brinkley, Brown, Bruce, Burnette, Carpenter, Clapp, Clarke, Cooper, Crupper, Cyrus, Dawahare, DeFalaise, Deskins, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Floyd, Foster, Freeman, Givhan, Gray, Guenthner, Hancock, Hardwick, Head, Holbrook, Holloway, Hopkins, Hughes, Imes, Isler, Jones, Kenton, Kidd, King, Kleier, LeMaster, Lindsay, Little, Mann, Mason, May, Maynard, McBride, McGill, Morgan, Morris, Muncy, Nett, O'Brien, Overstreet, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Romines, Sale, Schmidt, Siemens, Siler, Stephens, Stewart, Tobin, R. Turner, Vincent, Wells, Wible, Wright, Yates. Nays 0.

HB 299, as amended, was passed and the title agreed to.

Representative Holbrook moved that the vote by which **HB 299,** as amended, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 387 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Holloway moved that **HB 387** be passed.

On the roll call the vote was yeas 87-B. Adams, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blandford, Blume, Blythe, Boatwright, Brinkley, Brown, Bruce, Burnette, Carpenter, Clarke, Cooper, Craddock, Crupper, Cyrus, Dawahare, DeFalaise, Denham, Deskins, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Floyd, Foster, Freeman, Givhan, Gray, Guenthner, Hancock, Hardwick, Head, Holbrook, Holloway, Hopkins, Hughes, Hurst, Isler, Kenton, Kidd, King, Kleier, LeMaster, Lindsay, Little, Mann, Mason, Maynard, McBee, McBride, McGill, Morgan, Morris, Muncy, Nett, O'Brien, Overstreet, Pearl, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Romines, Sale, Schmidt, Siler, Stephens, Stewart, Tobin, Thomas, R. Turner, Vincent, Wells, Wible, Wooden, Wright, Yates. Nays 0.

HB 387 was passed and the title agreed to.

Representative Holloway moved that the vote by which **HB 387** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 457 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

On the roll call the vote was yeas 94-B. Adams, A. S. Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blandford, Blume, Blythe, Boatwright, Brinkley, Brown, Burnette, Carpenter, Clapp, Clarke, Craddock, Crupper, Cyrus, Dawahare, DeFalaise, DeMarcus, Deskins, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Floyd, Foster, Freeman, Gay, Givhan, Gray, Guenthner, Hancock, Hardwick, Head, Holbrook, Holloway, Hopkins, Hughes, Hurst, Imes, Isler, Jones, Kenton, Kidd, King, Kleier, LeMaster, Lindsay, Little, Mann, Mason, May, Maynard, McBee, McBride, McGill, Morgan, Morris, Muncy, Nett, O'Brien, Overstreet, Pearl, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Robinson, Romines, Sale, Schmidt, Siemens, Siler, Stephens, Stewart, Tobin, Thomas, R. Turner, Vincent, Wells, Wible, Wooden, Wright, Yates. Nays 0.

HB 457 was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **HB 457** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 498 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

On the roll call the vote was yeas 94-Ackerson, B. Adams, A. S. Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blandford, Blume, Boatwright, Brinkley, Brown, Bruce, Burnette, Carpenter, Clapp, Clarke, Craddock, Crupper, Cyrus, Dawahare, DeFalaise, DeMarcus, Denham, Deskins, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Floyd, Foster, Freeman, Gay, Givhan, Gray, Hancock, Hardwick, Head, Holbrook, Holloway, Hopkins, Hughes, Hurst, Imes, Isler, Jones, Kenton, Kidd, King, Kleier, LeMaster, Lindsay, Little, Mann, Mason, May, Maynard, McBee, McBride, McGill, Morgan, Morris, Muncy, Nett, O'Brien, Overstreet, Pearl, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Robinson, Romines, Sale, Siemens, Siler, Stephens, Stewart, Tobin, Thomas, R. Turner, Vincent, Wells, Wible, Wooden, Wright, Yates. Nays 1-Blythe.

HB 498 was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **HB 498** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 499 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative B. Richardson moved the adoption of the following Floor Amendment No. 1 to **HB 499:**

Amend printed copy of House Bill 499 page 89, lines 12-26, by deleting same;

and on page 90, lines 1-11 by deleting same and by renumbering all subsequent sections by lowering their number by one.

Agreed.

Representative B. Richardson moved that **HB 499,** as amended, be passed.

On the roll call the vote was yeas 93-Ackerson, B. Adams, A. S. Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blandford, Blume, Blythe, Boatwright, Brinkley, Brown, Bruce, Burnette, Carpenter, Clapp, Clarke, Craddock, Crupper, Cyrus, Dawahare, DeFalaise, DeMarcus, Denham, Deskins, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Floyd, Foster, Givhan, Gray, Guenthner, Hancock, Hardwick, Head, Holbrook, Holloway, Hopkins, Hughes, Hurst, Imes, Isler, Jones, Kenton, Kidd, King, LeMaster, Lindsay, Little, Mann, Mason, May, Maynard, McBee, McBride, McGill, Morgan, Morris, Muncy, Nett, O'Brien, Overstreet, Pearl, Priddy, Richards, B. Richardson, P. Richardson, Robinson, Romines, Sale, Schmidt, Siemens, Siler, Stephens, Stewart, Tobin, Thomas, R. Turner, Vincent, Wells, Wible, Wooden, Wright, Yates. Nays 0.

HB 499, as amended, was passed and the title agreed.

Representative B. Richardson moved that the vote by which **HB 499**, as amended, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

SB 85 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

On the roll call the vote was yeas 93-Ackerson, B. Adams, A. S. Adams, J. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blandford, Blume, Blythe, Boatwright, Brinkley, Brown, Bruce, Burnette, Carpenter, Clapp, Clarke, Craddock, Crupper, Cyrus, Dawahare, DeFalaise, DeMarcus, Denham, Deskins, Dietz, Donnermeyer, Doss, Fitzgerald, Floyd, Foster, Freeman, Gay, Givhan, Gray, Guenthner, Hancock, Hardwick, Head, Holbrook, Holloway, Hopkins, Hughes, Imes, Isler, Jones, Kenton, Kidd, King, Kleier, LeMaster, Lindsay, Little, Mann, Mason, May, Maynard, McBee, McBride, McGill, Morgan, Morris, Muncy, Nett, O'Brien, Overstreet, Pearl, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Robinson, Romines, Sale, Schmidt, Siemens, Siler, Stewart, Tobin, Thomas, R. Turner, Vincent, Wells, Wible, Wooden, Wright, Yates. Nays 0.

SB 85 was passed and the title agreed.

Representative B. Richardson moved that the vote by which **SB 85** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

SB 150 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

On the roll call the vote was yeas 42-B. Adams, Arnold, Bendl, Benson, Bevins, Blume, Blythe, Boatwright, Brinkley, Brown, Bruce, Clapp, Clarke, Craddock, DeFalaise, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Foster, Givhan, Gray, Hughes, Isler, Jones, Kenton, King, LeMaster, Lindsay, Mann, McBee, McBride, Morgan, Morris, B. Richardson, Siemens, Stephens, Tobin, Thomas, White, Yates. Nays 43-Ackerson, A. S. Adams, J. Allen, Beshear, Blair, Blandford, Burnette, Carpenter, Cooper, Crupper, Cyrus, Dawahare, DeMarcus, Denham, Deskins, Floyd, Freeman, Gay, Guenthner, Hancock, Hardwick, Head, Holloway, Hopkins, Imes, Kidd, Little, Mason, May, McGill, Muncy, O'Brien, Overstreet, Pearl, Rattliff, P. Richardson, Robinson, Sale, Siler, R. Turner, Wells, Wible, Wright.

SB 150 was defeated.

HB 347 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative White moved that **HB 347** be passed.

On the roll call the vote was yeas 78-Ackerson, B. Adams, A. S. Adams, J. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Blair, Blume, Blythe, Boatwright, Brinkley, Brown, Bruce, Burnette, Clapp, Clarke, Craddock, Crupper, Cyrus, Dawahare, DeFalaise, DeMarcus, Deskins, Dietz, Donnermeyer, Doss, Dunn, Floyd, Freeman, Gay, Gray, Guenthner, Hancock, Head, Holbrook, Holloway, Hopkins, Imes, Isler, Kenton, Kidd, King, LeMaster, Little, Mann, Mason, May, Maynard, McBee, McBride, McGill, Morgan, Morris, Muncy, O'Brien, Overstreet, Pearl, Priddy, Richards, B. Richardson, P. Richardson, Robinson, Romines, Schmidt, Siemens, Siler, Stephens, Stewart, Tobin, R. Turner, Vincent, White, Wible, Wright, Yates. Nays 3-Cooper, Denham, Lindsay.

HB 347 was passed and the title agreed to.

Representative White moved that the vote by which **HB 347** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 432 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Wible moved the adoption of the Committee Amendment No. 1 to **HB 432.** Agreed.

Representative Wible moved the adoption of the Committee Amendment No. 2 to **HB 432.** Agreed.

Representative Wible moved that **HB 432,** as amended, be passed.

On the roll call the vote was yeas 92-Ackerson, B. Adams, J. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blandford, Blythe, Boatwright, Brinkley, Brown, Bruce, Burnette, Carpenter, Clapp, Clarke, Cooper, Craddock, Crupper, Cyrus, Dawahare, DeFalaise, DeMarcus, Denham, Deskins, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Floyd, Foster, Gay, Givhan, Gray, Guenthner, Hancock, Hardwick, Head, Holbrook, Holloway, Hopkins, Hughes, Hurst, Imes, Isler, Jones, Kenton, Kidd, King, Kleier, LeMaster, Lindsay, Little, Mann, Mason, May, Maynard, McBee, McBride, McGill, Morgan, Morris, Muncy, Nett, O'Brien, Overstreet, Pearl, Priddy, Rattliff, Richards, B. Richardson, Robinson, Romines, Sale, Schmidt, Siemens, Siler, Stephens, Stewart, Tobin, Thomas, R. Turner, Vincent, Wells, Wible, Wright, Yates. Nays 0.

HB 432, as amended, was passed and the title agreed to.

Representative Wible moved that the vote by which **HB 432,** as amended, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 444 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

On the roll call the vote was yeas 58-B. Adams, J. Allen, Bendl, Bennett, Benson, Beshear, Bevins, Blandford, Blume, Boatwright, Brinkley, Carpenter, Clapp, Clarke, Craddock, Crupper, Dawahare, Denham, Deskins, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Foster, Gray, Hancock, Head, Hurst, Imes, Isler, Jones, Kenton, King, LeMaster, Lindsay, Little, Mann, May, McBee, McBride, McGill, Morgan, Richards, B. Richardson, P. Richardson, Robinson, Romines, Sale, Siemens, Stephens, Stewart, Tobin, Thomas, Vincent, Wells, Wible, Yates. Nays 27-Ackerson, Blair, Bruce, Burnette, Cooper, DeFalaise, DeMarcus, Floyd, Freeman, Gay, Givhan, Guenthner, Hardwick, Holbrook, Holloway, Hopkins, Hughes, Mason, Maynard, Nett, O'Brien, Pearl, Priddy, Rattliff, Siler, R. Turner, Wright.

HB 444 was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **HB 444** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 261, with Committee Substitute attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lindsay moved the adoption of the Committee Substitute for **HB 261.** Agreed.

Representative Lindsay moved that **HB 261,** by way of Committee Substitute, be passed.

On the roll call the vote was yeas 90-Ackerson, B. Adams, A. S. Adams, W. Allen, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blandford, Blume, Blythe, Boatwright, Brinkley, Brown, Bruce, Burnette, Carpenter, Clapp, Clarke, Cooper, Craddock, Crupper, Cyrus, Dawahare, DeFalaise, DeMarcus, Denham, Deskins, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Floyd, Foster, Freeman, Gay, Givhan, Gray, Guenthner, Hancock, Hardwick, Head, Holbrook, Holloway, Hopkins, Hughes, Hurst, Imes, Isler, Jones, Kenton, Kidd, King, Kleier, LeMaster, Lindsay, Little, Mann, Mason, May, Maynard, McBee, McBride, McGill, Morgan, Morris, Muncy, O'Brien, Overstreet, Pearl, Richards, B. Richardson, P. Richardson, Robinson, Sale, Schmidt, Siemens, Siler, Stephens, Tobin, Thomas, R. Turner, Vincent, Wells, Wible, Wright, Yates. Nays 1-Priddy.

HB 261, by of Committee Substitute, was passed and the title agreed to.

Representative Lindsay moved that the vote by which **HB 261,** as amended, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 377 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Siemens moved that **HB 377** be passed.

Representative DeMarcus moved that **HB 377** be laid on the table.

On the roll call the vote was yeas 41-Ackerson, A. S. Adams, J. Allen, W. Allen, Bennett, Blair, Brinkley, Burnette, Cooper, Craddock, Crupper, Dawahare, DeMarcus, Denham, Floyd, Freeman, Gay, Gray, Guenthner, Hardwick, Head, Holbrook, Holloway, Hopkins, Hughes, Hurst, Jones, Little, Mason, McBee, Muncy, O'Brien, Overstreet, Rattliff, P. Richardson, Robinson, Sale, Siler, Tobin, R. Turner, Wright. Nays 38-B. Adams, Bendl, Benson, Beshear, Blandford, Blume, Blythe, Boatwright, Carpenter, Clarke, Cyrus, Deskins, Donnermeyer, Doss, Fitzgerald, Foster, Givhan, Hancock, Imes, Isler, Kenton, Kidd, King, Kleier, LeMaster, Mann, McGill, Morgan, Nett, Pearl, Richards, B. Richardson, Schmidt, Siemens, Stephens, Vincent, Wible, Wooden.

HB 377 was tabled.

HB 226, by way of Committee Substitute as amended by Floor Amendemnt No. 1, taken from Orders of the Day. Representative B. Richardson moved that it be placed upon its passage. Agreed.

Representative Mason moved the adoption of the following Floor Amendment No. 2 to **HB 226:**

Amend printed copy of Committee Substitute for House Bill 226 page 2, lines 13, 14, 15, bracketing [is a member of a recognized religious organization whose teachings and tenets are contrary to the performance of an autopsy.] and inserting in lieu thereof, the following: "objects to an autopsy in simple written form and files such form with attending physician or coroner."

Agreed.

Representative Mason moved that **HB 226,** by way of Committee Substitute as amended, be passed.

On the roll call the vote was yeas 86-Ackerson, B. Adams, J. Allen, W. Allen, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blandford, Blume, Blythe, Boatwright, Brinkley, Brown, Bruce, Carpenter, Clarke, Cooper, Crupper, Cyrus, Dawahare, DeFalaise, DeMarcus, Deskins, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Floyd, Foster, Gay, Givhan, Gray, Guenthner, Hancock, Hardwick, Head, Holbrook, Holloway, Hopkins, Hughes, Imes, Isler, Kenton, Kidd, King, Kleier, LeMaster, Lindsay, Little, Mann, Mason, May, Maynard, McBee, McGill, Morgan, Morris, Muncy, Nett, O'Brien, Overstreet, Pearl, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Robinson, Romines, Sale, Schmidt, Siemens, Siler, Stephens, Tobin, Thomas, R. Turner, Vincent, Wells, Wible, Wooden, Yates. Nays 4-Burnette, Denham, Jones, Wright.

HB 226, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Mason moved that the vote by which **HB 226,** by way of Committee Substitute as amended, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative B. Richardson moved that consideration of **HB 251** be deferred and that it retain its position in Orders of the Day. Agreed.

HB 407 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Benson moved the adoption of the following Floor Amendment No. 2 to **HB 407:**

Amend printed copy of House Bill 407 page 8, between lines 15 and 16, insert new sections:

(c) To the rental of a housing accommodation in a building which contains housing accommodations for not more than four (4) families living independently of each other if the owner or a member of his family resides in one (1) of the housing accommodations.

(d) To a rooming or boarding house containing not more than four (4) rooms for rent or hire and which is within a building occupied by the proprietor as his residence.

and on page 16, line 26, delete Section 13 in its entirety.

Agreed.

Representative Benson moved that **HB 407,** as amended, be passed.

On the roll call the vote was yeas 46-Bendl, Bennett, Benson, Beshear, Blandford, Blume, Blythe, Boatwright, Brinkley, Bruce, Cooper, Cyrus, DeFalaise, DeMarcus, Dietz, Donnermeyer, Doss, Dunn, Givhan, Gray, Hancock, Isler, Kenton, Kidd, King, Kleier, LeMaster, Little, Mann, McBee, McGill, Morris, Muncy, Nett, Pearl, Priddy, Robinson, Romines, Siemens, Siler, Stewart, Tobin, Thomas, Wible, Wooden, Yates. Nays 38-B. Adams, A. S. Adams, J. Allen, W. Allen, Blair, Brown, Burnette, Clapp, Clarke, Craddock, Crupper, Dawahare, Denham, Fitzgerald, Floyd, Foster, Freeman, Guenthner, Hardwick, Head, Holloway, Hopkins, Hughes, Hurst, Imes, Jones, Lindsay, Mason, May, Morgan, O'Brien, Rattliff, Richards, P. Richardson, Sale, Stephens, R. Turner, Vincent.

HB 407, as amended, was passed and the title agreed to.

Representative Benson moved that the vote by which **HB 407,** as amended, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative B. Richardson moved that consideration of **HB 61** be deferred and that it retain its postion in Orders of the Day. Agreed.

HB 168, with Committee Substitute and Committee Amendment to the Committee Substitute attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Romines moved the adoption of the Committee Substitute for **HB 168.**

On the roll call the vote was yeas 47-Ackerson, J. Allen, W. Allen, Bennett, Blair, Boatwright, Brinkley, Burnette, Cooper, Crupper, Cyrus, DeFalaise, DeMarcus, Deskins, Donnermeyer, Doss, Dunn, Floyd, Gay, Gray, Guenthner, Hardwick, Holbrook, Holloway, Hopkins, Hughes, Imes, Isler, King, May, Maynard, McBee, Morgan, Muncy, O'Brien, Overstreet, Priddy, Robinson, Romines, Sale, Siemens, Siler, Stewart, Vincent, Wooden, Wright, Yates. Nays 7-Beshear, Blume, Clarke, Kidd, Lindsay, McGill, Wible.

The Committee Substitute for **HB 168** was adopted.

Representative Romines moved the adoption of the Committee Amendment to the Committee Substitute for **HB 168.** Agreed.

Representative Romines moved that consideration of Floor Amendment No. 1 to **HB 168** be deferred. Agreed.

Representative Romines moved the adoption of the following Floor Amendment No. 3 to the Committee Substitute for **HB 168:**

Amend printed copy of Committee Substitute for House Bill 168 page 1, line 15, by adding thereafter the following:

"(4) Public elementary and secondary schools shall not change their present grade level structure without written permission from the state board of education in accordance with KRS 156.070 and 156.160."

On the roll call the vote was yeas 38-Ackerson, A. S. Adams, J. Allen, Bennett, Blair, Boatwright, Brinkley, Burnette, Clapp, Cyrus, Dawahare, DeFalaise, DeMarcus, Deskins, Donnermeyer, Doss, Dunn, Freeman, Gay, Gray, Guenthner, Holbrook, Holloway, Hughes, Jones, King, Little, O'Brien, Overstreet, Priddy, Rattliff, Robinson, Romines, Schmidt, Siler, Vincent, Wright, Yates. Nays 32-Benson, Beshear, Bevins, Blandford, Blume, Blythe, Brown, Carpenter, Clarke, Craddock, Crupper, Fitzgerald, Foster, Givhan, Hancock, Hopkins, Kenton, Kidd, Kleier, LeMaster, Mann, Mason, May, McBee, McBride, McGill, Nett, Pearl, B. Richardson, P. Richardson, Tobin, Wible.

The Floor Amendment No. 3 to the Committee Substitute for **HB 168** was adopted.

Representative Romines moved that **HB 168,** by way of Committee Substitute as amended, be passed.

Representative McBride moved that **HB 168,** by way of Committee Substitute as amended, be laid on the table.

On the roll call the vote was yeas 36-B. Adams, Bendl, Benson, Beshear, Blandford, Blume, Carpenter, Clarke, Craddock, Crupper, Dietz, Fitzgerald, Foster, Givhan, Hancock, Hopkins, Kenton, Kidd, King, Kleier, LeMaster, Mann, McBee, McBride, McGill, Morgan, Muncy, Pearl, Richards, B. Richardson, P. Richardson, Stephens, Tobin, R. Turner, Wells, Wible. Nays 38-Ackerson, A. S. Adams, W. Allen, Bennett, Boatwright, Brinkley, Brown, Bruce, Burnette, Clapp, Cooper, Cyrus, Dawahare, DeFalaise, Deskins, Dunn, Freeman, Gay, Gray, Guenthner, Holbrook, Holloway, Hughes, Imes, Isler, Mason, May, Morris, O'Brien, Overstreet, Priddy, Rattliff, Robinson, Romines, Siemens, Vincent, Wright, Yates.

The motion that **HB 168,** by way of Committee Substitute as amended, be laid on the table was rejected.

Representative Wible moved that **HB 168,** by way of Committee Substitute as amended, be laid on the Clerk's desk.

On the roll call the vote was yeas 41-Arnold, Bendl, Benson, Beshear, Bevins, Blair, Blandford, Blume, Brown, Carpenter, Clarke, Craddock, Crupper, Dietz, Fitzgerald, Foster, Givhan, Gray, Head, Isler, Jones, Kenton, Kidd, King, Kleier, LeMaster, Mann, Mason, McBee, McBride, McGill, Morgan, Morris, Nett, Richards, B. Richardson, Sale, Schmidt, Stephens, Tobin, Wible. Nays 33-Ackerson, A. S. Adams, Bennett, Blythe, Bruce, Burnette, Cooper, Cyrus, Dawahare, DeFalaise, DeMarcus, Deskins, Donnermeyer, Doss, Dunn, Freeman, Gay, Guenthner, Hancock, Holbrook, Holloway, Hughes, Hurst, Imes, May, O'Brien, Priddy, Romines, Siemens, Thomas, Vincent, Wright, Yates.

The motion that **HB 168,** by way of Committee Substitute as amended, be laid on the Clerk's desk was adopted.

Report on Enrolled Bills

The Committee on Enrollment reported **HB 26** and **HB 335** had been examined and found correctly enrolled. **HB 26** and **HB 335** read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate.

HB 26 and **HB 335** delivered to the Senate, signed by President. Ordered delivered to the Governor.

Orders of the Day (continued)

Representative B. Richardson moved that **HB 107** be recommitted to the Committee on Labor and Industry. Agreed.

Representative B. Richardson moved that **HB 468** be recommitted to the Committee on Judiciary-Statutes. Agreed.

Representative B. Richardson moved that consideration of **HB 122, HB 361,** and **HB 456** be deferred and that they retain their position in Orders of the Day. Agreed.

HB 476 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hughes moved that **HB 476** be passed.

On the roll call the vote was yeas 74-Ackerson, B. Adams, A. S. Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blandford, Blume, Blythe, Boatwright, Brinkley, Brown, Bruce, Burnette, Carpenter, Cooper, Dawahare, DeFalaise, DeMarcus, Denham, Deskins, Donnermeyer, Doss, Dunn, Fitzgerald, Floyd, Foster, Freeman, Gay, Givhan, Gray, Guenthner, Hardwick, Head, Holbrook, Hopkins, Hughes, Hurst, Imes, Kenton, Kidd, King, Kleier, LeMaster, Lindsay, Little, Mann, Mason, May, McBride, McGill, Morris, Muncy, Nett, O'Brien, Overstreet, Rattliff, Richards, B. Richardson, Romines, Sale, Siler, R. Turner, Vincent, Wible, Wooden, Wright, Yates. Nays 7-Craddock, Crupper, Hancock, Jones, McBee, Stephens, Tobin.

HB 476 was passed and the title agreed to.

Representative Hughes moved that the vote by which **HB 476** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 521 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lindsay moved that **HB 521** be passed.

On the roll call the vote was yeas 63-Ackerson, A. S. Adams, W. Allen, Bendl, Bennett, Benson, Beshear, Bevins, Blandford, Blythe, Boatwright, Brinkley, Brown, Carpenter, Clarke, Dawahare, DeFalaise, DeMarcus, Denham, Deskins, Donnermeyer, Doss, Fitzgerald, Foster, Freeman, Gay, Givhan, Gray, Guenthner, Hancock, Head, Holbrook, Holloway, Hopkins, Hughes, Hurst, Imes, Isler, Kenton, LeMaster, Lindsay, Little, Mann, Mason, May, McBee, McBride, Morgan, O'Brien, Pearl, Richards, B. Richardson, Romines, Sale, Schmidt, Siemens, Stephens, Vincent, Wells, Wible, Wooden, Wright, Yates. Nays 13-J. Allen, Arnold, Blume, Cooper, Crupper, Hardwick, Kidd, King, P. Richardson, Siler, Tobin, R. Turner, White.

HB 521 was passed and the title agreed to.

Representative Lindsay moved that the vote by which **HB 521** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative B. Richardson moved that consideration of all bills remaining in Orders of the Day be deferred and that they retain their postion in Orders of the Day. Agreed.

Representative B. Richardson moved that the rules be suspended for Introduction of Bills and Resolutions and Posting of Bills and Resolutions for Consideration. Agreed.

Introduction of Bills and Resolutions

HB 748, by Representatives Dunn, Bennett, Hughes, Priddy, Romines, and Yates: AN ACT relating to sewers.

HB 749, by Representative Blandford: AN ACT relating to license taxes.

HB 750, by Representatives Mann and Donnermeyer: AN ACT relating to county commissioners.

HB 751, by Representative Burnette: AN ACT relating to state purchasing.

HB 752, by Representative B. Adams: AN ACT relating to the payment of taxes.

HB 753, by Representatives Guenthner and Benson: AN ACT relating to cities.

HB 754, by Representatives Richards, Brown, Burnette, and Holbrook: AN ACT permitting the imposition of a late charge on past due insurance accounts.

HB 755, by Representatives Robinson, Bruce, Ackerson, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blandford, Boatwright, Brinkley, Brown, Bruce, Burnette, Carpenter, Clarke, Cooper, Craddock, Crupper, Cyrus, Dawahare, DeFalaise, DeMarcus, Denham, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Floyd, Gay, Gray, Guenthner, Hancock, Hardwick, Holbrook, Holloway, Hopkins, Hurst, Imes, Jones, Kleier, LeMaster, Little, Mann, Mason, May, Maynard, McBee, McGill, Morris, Muncy, O'Brien, Pearl, Priddy, Richards, B. Richardson, Robinson, Schmidt, Siemens, Siler, Tobin, Thomas, R. Turner, Vincent, Wells, White, Wible, Wooden, Wright, and Yates: AN ACT relating to the testimony of witnesses.

HJR 78, by Representatives Richards, B. Adams, and Holbrook: A JOINT RESOLUTION directing the Council on Public Higher Education to study and recommend means for the removal of inequity in the retirement program available to the professional staffs of the various institutions of public higher education.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Banking and Insurance: **SB 112, HB 721.**

Business Organizations and Professions: **HB 680, HB 19.**

Cities: **HB 688.**

Education: **HB 601, SB 50, SB 84, HB 327.**

Health and Welfare: **HB 641, HB 647.**

Judiciary-Courts: **HB 731.**

Judiciary-Statutes: **HB 708, HB 701, HB 714.**

Labor and Industry: **HB 652, HCR 67, HB 286, HB 107.**

Public Utilities and Transportation: **HB 595, SB 96.**

Banking and Insurance: **SB 169.**

The Clerk announced the following Bills had been withdrawn from Committee consideration:

HB 516, HB 505.

Announcements

Representative B. Richardson filed Floor Amendment No. 1 to **HB 93.**

Representative Kidd requested that she be recorded as voting "yea" on **HB 444.**

Representative Deskins requested that he be recorded as voting "yea" on **HB 407.**

Representative Romines requested that his vote be changed from "yea" to "nay" on **HB 444.**

The following members filed requests with the Clerk to have their names added as co-sponsors of Bills and Resolutions: Representative Blythe, HB 246, **HB 247;** Representative Romines, **HB 732;** Representative May, **HB 148, HB 172, HB 173, HB 277;** Representative Wells, **HB 148;** Representative Hopkins, **HB 27, HB 72, HB 79, HB 180, HB 88, HB 91, HB 94, HB 99, HB 233, HB 171.**

Representative Siemens moved that the rules be suspended to allow him to request that the Journal show how he wished to have his votes recorded on bills acted upon while he was absent. Agreed.

Adjournment

Representative B. Richardson moved that the House adjourn until 2:00 p.m., Tuesday, March 2, 1976.

On the roll call the vote was yeas 44-Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blume, Blythe, Brinkley, Brown, Bruce, Carpenter, Craddock, DeFalaise, Donnermeyer, Dunn, Foster, Givhan, Head, Holbrook, Holloway, Hopkins, Hughes, Isler, Kenton, Kidd, Kleier, LeMaster, Mason, May, McBee, McBride, McGill, Morgan, Morris, Nett, Richards, B. Richardson, Robinson, Sale, Schmidt, Tobin, Vincent, White. Nays 12-W. Allen, Burnette, Crupper, Deskins, Gray, Guenthner, Hurst, Imes, Jones, Mann, P. Richardson, Wright.

The motion to adjourn was adopted.

TUESDAY, MARCH 2, 1976

FORTY-FOURTH LEGISLATIVE DAY

The House was called to order by Speaker Kenton.

Prayer by Reverend George W. Smith, First Baptist Church, Leitchfield.

The roll was called. All present except Representative J. Turner.

Representative Isler moved that absent members be granted leave of absence in accordance with the prevailing rules of the House. Agreed.

Representative Hughes moved that the reading of the Journal of March 1, 1976, be dispensed with and the same approved. Agreed.

The Speaker vacated the Chair.

Representative Morgan presiding.

Introduction of Bills and Resolutions

HR 79, by Representatives LeMaster and Dawahare: A RESOLUTION honoring Millersburg Military Institute.

HB 756, by Representative Hancock: AN ACT relating to persons who may be employed.

HB 757, by Representative Freeman: AN ACT relating to health care costs.

HB 758, by Representative B. Richardson: AN ACT relating to chiropractors.

HB 759, by Representative B. Richardson: AN ACT relating to the Kentucky Bicentennial Oral History Commission.

HB 760, by Representative B. Richardson: AN ACT relating to the nonsupport of children.

HB 761, by Representative B. Richardson: AN ACT relating to the defense and indemnification of state employes sued individually while acting in the scope of their employment.

HB 762, by Representatives B. Richardson and Brinkley: AN ACT relating to juvenile courts.

HB 763, by Representative B. Richardson: AN ACT relating to proprietary education.

HB 764, by Representative B. Richardson: AN ACT relating to the Kentucky housing corporation.

HB 765, by Representative B. Richardson: AN ACT relating to the Uniform Reciprocal Enforcement of Support Act.

HB 766, by Representative Givhan: AN ACT relating to property.

HB 767, by Representative Cooper: AN ACT relating to payment of a bonus to certain veterans who served during the Viet Nam conflict and certain persons deriving from them.

HB 768, by Representatives Mann and King: AN ACT relating to district detectives.

HB 769, by Representatives Robinson and Siler: AN ACT relating to state representative districts.

HB 770, by Representative Morgan: AN ACT relating to retirement of police and firemen.

HB 771, by Representatives Donnermeyer and Romines: AN ACT relating to the sale and merchantability of motor vehicles.

HB 772, by Representative Donnermeyer: AN ACT relating to coin-operated devices.

HB 773, by Representative Donnermeyer: AN ACT relating to prevailing wages for construction of public works.

HB 774, by Representatives Donnermeyer and Schmidt: AN ACT relating to newspapers.

HB 775, by Representatives Deskins and Freeman: AN ACT relating to public colleges and universities.

HB 776, by Representative Deskins: AN ACT relating to assistant coroners.

Senate Message

Announcing passage of **SB 90, SB 195, SB 242, SB 226, SB 220, SB 276, SB 184, SB 103,** and **HB 358.**

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Natural Resources: **HB 744.**

Appropriations and Revenue: **HB 743, HB 747, SB 144, SB 187.**

Banking and Insurance: **HB 735, HB 738, HB 739, HB 741, HB 749, HB 752, HB 754.**

Business Organizations and Professions: **HB 737.**

Cities: **HB 753.**

Counties and Special Districts: **HB 736, HB 740, HB 748.**

Education: **HB 745, HJR 76, HJR 78, SB 83, SB 89.**

Elections and Constitutional Amendments: **HB 750.**

Judiciary-Courts: **SB 161.**

Judiciary-Statutes: **HB 746, HB 755.**

Labor and Industry: **HB 742.**

Public Utilities and Transportation: **SB 223.**

State Government: **HB 751.**

Report of Committees

The Committee on Banking and Insurance reported **HB 566** and **HB 600** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 566, AN ACT relating to insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 304.6-140 is amended to read as follows:

(1) This subsection applies only to policies and contracts issued prior to January 1, 1948, or such earlier date after June 13, 1944, as shall have been elected by an insurer as the date on and after which it would comply with the standard nonforfeiture law. *Except as otherwise provided in paragraph (b) of subsection 2 of this section, the* The minimum standard for the valuation of all such policies and contracts shall be that provided by the laws in effect immediately prior to such date. Reserves for all such policies and contracts may be calculated, at the option of the insurer, according to any standards which produce greater aggregate reserves for all such policies and contracts than the minimum reserves required by this subsection.

(2) This subsection applies only to policies and contracts issued on and after January 1, 1948, or such earlier date after June 13, 1944, as shall have been elected by an insurer as the date on and after which it would comply with the standard nonforfeiture law, *except as otherwise provided in paragraph (b) of this subsection for group annuity and pure endowment contracts issued prior to such date.*

(a) Except as otherwise provided in paragraph (b) of this subsection, the The minimum standard for the valuation of all such policies and contracts shall be the commissioners reserve valuation method defined in KRS 304.6-150, 4 per cent interest, and the following tables:

1. (a) Standard ordinary mortality table. For all ordinary policies of life insurance issued on the standard basis, excluding any disability and accidental death benefits in such policies,—he commissioners 1941 standard ordinary mortality table; Provided, however, That the commissioners 1958 standard ordinary mortality table shall be the table for such minimum standard for such policies issued on and after January 1, 1966, or such earlier date after June 16, 1960, as shall have been elected by an insurer as the date on and after which it would use such table as the basis for minimum cash surrender values and nonforfeiture benefits under the standard nonforfeiture law; Provided that for any category of such policies issued on female risks all modified net premiums and present values referred to in KRS 304.6-130 to 304.6-180, inclusive, may be calculated according to an age not more than three (3) years younger than the actual age of the insured.

2. (b) Standard industrial mortality table. For all industrial life insurance policies issued on the standard basis, excluding any disability and accidental death benefits in such policies,—he 1941 standard industrial mortality table; Provided, however, That the commissioners 1961 standard industrial mortality table shall be the table for such minimum standard for such policies issued on and after January 1, 1968, or such earlier date after June 14, 1962, as shall have been elected by the insurer as the date on and after which it would use such table as the basis for minimum cash surrender values and nonforfeiture benefits under the standard nonforfeiture law.

3. (c) Standard annuity mortality table or annuity mortality table. For individual annuity and pure endowment contracts, excluding any disability and accidental death benefits in such policies—he 1937 standard annuity mortality table or, at the option of the insurer, the annuity mortality table for 1949, Ultimate, or any modification of either of these tables approved by the commissioner.

4. (d) Group annuity mortality table. For group annuity and pure endowment contracts, excluding any disability and accidental death benefits in such policies—he group annuity mortality table for 1951, any modification of such table approved by the commissioner, or, at the option of the insurer, any of the tables or modifications of tables specified for individual annuity and pure endowment contracts.

5. (e) Class (3) disability table. For total and permanent disability benefits in or supplementary to ordinary policies or contracts on active and disabled lives—or policies or contracts issued on or after January 1, 1966, the tables of period 2 disablement rates and the 1930 to 1950 termination rates of the 1952 disability study of the society of actuaries, with due regard to the type of benefit; for policies or contracts issued on or after January 1, 1961 and prior to January 1, 1966, either such tables or, at the option of the insurer, the class (3) disability table (1926), and for policies issued prior to January 1, 1961, the class (3) disability table (1926). In addition, any such table shall, for active lives, be combined with a mortality table permitted for calculating the reserves for life insurance policies.

6. (f) Inter-company double indemnity mortality table. For accidental death benefits in or supplementary to policies—or policies issued on or after January 1, 1966, the 1959 accidental death benefits table; for policies issued on or after January 1, 1961 and prior to January 1, 1966, either such table or, at the option of the insurer, the inter-company double indemnity mortality table; and for policies issued prior to January 1, 1961, the inter-company double indemnity mortality table. Either table shall be combined with a mortality table permitted for calculating the reserves for life insurance policies.

7. (g) Group life and other tables. For group life insurance, life insurance issued on the substandard basis and other special benefits—uch tables as may be approved by the commissioner.

(b) The minimum standard for the valuation of all individual annuity and pure endowment contracts issued on or after January 1, 1979, excluding any disability and accidental death benefits in such contracts, shall be the commissioners reserve valuation method defined in KRS 304.6-150, six percent (6%) interest for single premium immediate annuity contracts and four percent (4%) interest for all other contracts, and the 1971 Individual Annuity Mortality Table, or any modification of this table approved by the commissioner.

The minimum standard for the valuation of all annuities and pure endowments purchased on or after January 1, 1979, under group annuity and pure endowment contracts, excluding any disability and accidental death benefits in such contracts, shall be the commissioners reserve valuation method defined in KRS 304.6-150, six percent (6%) interest, and the 1971 Group Mortality Table, or any modification of this table approved by the commissioner.

The minimum standard for the valuation of all individual annuity and pure endowment contracts issued on or after July 1, 1976, and prior to January 1, 1979, and of all annuities and pure endowments purchased on or after July 1, 1976, and prior to January 1, 1979, under group annuity and pure endowment contracts, excluding any disability and accidental death benefits in such contracts, shall be the standard specified in this paragraph, or, at the option of the insurer with respect to any such contracts or purchases, the standard specified in paragraph (a) of this subsection.

HB 600, AN ACT relating to the Kentucky Insurance Guaranty Association.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 304.36-080 is amended to read as follows:

(1) The association shall:

(a) Be obligated to the extent of the covered claims existing prior to the determination of insolvency and arising within thirty (30) days after the determination of insolvency, or before the policy expiration date if less than thirty (30) days after the determination, or before the insured replaces the policy or on request effects cancellation, if he does so within thirty (30) days of the determination, but such obligation shall include only that amount of each covered claim which is in excess of $200 and is less than $50,000, except that the association shall pay the full amount of any covered claim arising out of a workmen's compensation policy. In no event shall the association be obligated to a policyholder or claimant in an amount in excess of the face amount of the policy from which the claim arises.

(b) Be deemed the insurer to the extent of its obligation on the covered claims and to such extent shall have all rights, duties, and obligations of the insolvent insurer as if the insurer had not become insolvent.

(c) Assess insurers amounts necessary to pay the obligations of the association under paragraph (a) subsequent to an insolvency, the expenses of handling covered claims subsequent to an insolvency, and the cost of examinations under KRS 304.36-130 and other expenses authorized by this subtitle. The assessments of each member insurer shall be in the proportion that the net direct written premiums of the member insurer for the calendar year preceding the assessment bears to the net direct written premiums of all member insurers for the calendar year preceding the assessment. Each member insurer shall be notified of the assessment not later than thirty (30) days before it is due. No member insurer may be assessed in any year an amount greater than one percent (1%) of that member insurer's net direct written premiums for the calendar year preceding the assessment. If the maximum assessment, together with the other assets of the association, does not provide in any one (1) year an amount sufficient to make all necessary payments, the funds available shall be prorated and the unpaid portion shall be paid as soon thereafter as funds become available. The association shall pay claims in any order which it may deem reasonable including the payment of claims as such are received from the claimants or in groups or categories of claims. The association may exempt or defer, in whole or in part, the assessment of any member insurer, if the assessment would cause the member insurer's financial statement to reflect amounts of capital or surplus less than the minimum amounts required for a certificate of authority by any jurisdiction in which the member insurer is authorized to transact insurance; Provided, however, That during the period of deferment no dividends shall be paid to shareholders or policyholders. Deferred assessments shall be paid when such payment will not reduce capital and surplus below required minimums. Such payments shall be refunded to those companies receiving larger assessments by virtue of such deferment, or at the election of any such company, credited against future assessments. Each member insurer serving as a servicing facility may set off against any assessment, authorized payments made on covered claims and expenses incurred in the payment of such claims by such member insurer.

(d) Issue to each insurer paying an assessment under this section a certificate of contribution, in appropriate form and terms as prescribed by the commissioner, for the amount so paid. All outstanding certificates shall be of equal dignity and priority without reference to amounts or dates of issue.

1. A certificate of contribution shall be shown by the insurer in its financial statements as an admitted asset for such amount and period of time as the commissioner may approve; provided that, unless a longer period has been allowed by the commissioner the insurer shall in any event at its option have the right to so show a certificate of contribution as an admitted asset at percentages of origianl face amount for calendar years as follows:

A. One hundred percent for the calendar year of issuance;

B. Eighty percent for the first calendar year after the year of issuance;

C. Sixty percent for the second calendar year after the year of issuance;

D. Forty percent for the third calendar year after the year of issuance;

E. Twenty percent for the fourth calendar year after the year of issuance which shall be the last year each such certificate shall be carried as an asset.

2. The insurer shall offset the amount written off by it in a calendar year under subparagraph A above, against its premium tax liability to this state accrued with respect to business transacted in such year. The provisions of this section shall not apply to the extent that any such amounts, written off in any such calendar year, have been recouped by the insurer pursuant to the provisions of KRS 304.36-160.

3. Any sums recovered by the association representing sums which have theretofore been written off by contributing insurers and offset against premium taxes as provided in subparagraph B above, shall be paid by the association to the commissioner of revenue who shall handle such funds in the same manner as if such funds were taxes produced by KRS 136.340.

(e) (d) Investigate claims brought against the association and adjust, compromise, settle, and pay covered claims to the extent of the association's obligation and deny all other claims.

(f) (e) Notify such persons as the commissioner directs under KRS 304.36-100 (2) (a).

(g) (f) Handle claims through its employes or through one or more insurers or other persons designated as servicing facilities. Designation of a servicing facility is subject to the approval of the commissioner, but such designation may be declined by a member insurer.

(h) (g) Reimburse each servicing facility for obligations of the association paid by the facility and for expenses incurred by the facility while handling claims on behalf of the association and shall pay the other expenses of the association authorized by this subtitle.

(2) The association may:

(a) Appear in, defend, and appeal any action on a claim brought against the association.

(b) Employ or retain such persons as are necessary to handle claims and perform other duties of the association.

(c) Borrow funds necessary to effect the purposes of this subtitle in accord with the plan of operation.

(d) Sue or be sued.

(e) Negotiate and become a party to such contracts as are necessary to carry out the purpose of this subtitle.

(f) Perform such other acts as are necessary or proper to effectuate the purpose of this subtitle.

(g) Refund to the member insurers in proportion to the contribution of each member insurer to the association that amount by which the assets of the association exceed the liabilities, if, at the end of any calendar year, the board of directors finds that the assets of the association exceed the liabilities of the association as estimated by the board of directors for the coming year.

Section 2. KRS 136.340 is amended to read as follows:

Every stock insurance company, other than life, doing business in this state shall, on or before the first day of March of each year, return to the department of revenue a statement under oath of all amounts paid to the company or its representative, whether designated as premiums or otherwise, for insurance or services incident thereto, on property or risks in this state during the preceding calendar year or since the last returns were made, including amounts received for reinsurance on Kentucky risks from unauthorized companies, and shall at the same time pay a tax of two dollars ($2.00), *less any amounts claimed as written off under a certificate of contribution as provided for in KRS 304.36-080(1)(d) during the calendar year,* upon each one hundred dollars ($100) of such amounts paid to the company, less amounts returned on canceled policies and policies not taken.

Section 3. KRS 136.350 is amended to read as follows:

(1) All mutual companies other than life doing business under this law shall pay to the department of revenue on or before the first day of March in each year, a tax of two per cent (2%), *less any amounts claimed as written off under a certificate of contribution as provided for in KRS 304.080(1)(d) during the calendar year,* of all amounts paid to the company or its representative, whether designated as premiums or otherwise, for insurance or services incident thereto, including amounts paid for membership or policy dues or fees, on property or risks in this state during the preceding calendar year, including amounts received for reinsurance on Kentucky risks from unauthorized companies.

(2) In addition to the foregoing tax, mutual insurance companies and Lloyd's insurers shall pay an annual tax as prescribed for stock insurance companies by KRS 136.360 and for like purposes.

(3) In computing premiums upon which tax is to be paid there shall be deducted, in both direct and reinsurance business, return premiums on canceled policies and policies not taken, and dividends paid or credited to policyholders.

(4) The provisions of this section shall not apply to domestic mutual companies, cooperative or assessment fire insurance companies.

Section 4. KRS 136.370 is amended to read as follows:

Each attorney, for the exchange of reciprocal or interinsurance contracts, under KRS chapter 304, shall pay to the department of revenue on or before March 1 of each year a tax of two per cent (2%), *less any amounts claimed as written off under a certificate of contribution as provided for in KRS 304.36-080(1)(d) during the calendar year,* of the gross premiums or deposits collected from subscribers in this state during the preceding calendar year, less all amounts returned to subscribers or accredited to their account as savings. In addition, the attorney shall pay an annual premium tax of three-fourths of one per cent (.75%) of all amounts as prescribed for every stock insurer by and for the purposes specified in KRS 136.360.

Section 5. KRS 136.390 is amended to read as follows:

(1) All associations of underwriters authorized under KRS 304.3-040, 304.3-140, 304.28-010, 304.28-030, 304.28-040, and 304.28-050, and their representatives, shall make the same reports as are required of foreign stock insurance companies and their representatives transacting the same or similar kinds of insurance business in this state, and shall pay the same taxes as are required to be paid by such companies.

(2) All foreign mutual assessment companies, associations, individual firms, underwriters or Lloyd's, having resident members doing business in this state, who shall enter into contracts of insurance with each other or into agreements to indemnify each other against losses by fire, lightning, windstorm or other casualties for which there is no premium charged or collected at the time insurance is made, shall be deemed to be doing an insurance business in this state, and shall annually, by July 30, pay to the department of revenue a license tax of two dollars ($2.00), *less any amounts claimed as written off under a certificate of contribution as provided for in KRS 304.36-080(1)(d) during the calendar year,* upon each one hundred dollars ($100) of assessments paid or collected in any one (1) year. Each resident member shall be liable to the state for the license tax and all interest and penalties.

(3) No person shall fail or refuse to make a report giving all the data and information necessary to determine the amount of revenue due under subsection (2) of this section, or fail to make the report provided for in subsection (2) of this section, or fail to pay the tax due thereon.

The Committee on Cities reported **HB 64** with Committee Substitute attached thereto, **HB 631, HB 663, HB 716** with Committee Substitute attached thereto, **HR 58,** and **SB 181** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 64, AN ACT relating to disasters and emergencies.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 39 is created to read as follows:

State agencies and units of local government may perform disaster and emergency functions provided for in KRS 39.400 to 39.460 and 39.990 on private property in the same manner as upon public property except that public funds shall not be expended, unless otherwise permitted by law, for construction, reconstruction, or repair of private dwellings, businesses, or other private facilities.

The Committee Substitute for **HB 64** is as follows:

HB 64, AN ACT relating to disasters and emergencies.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 39 IS CREATED TO READ AS FOLLOWS:

(1) State agencies and units of local government and their agents may, with the concurrence of the Adjutant General or his designated representative, perform on private property such disaster and emergency functions as provided for in KRS 39.400 to 39.460 and KRS 39.990 when as a result of the occurrence or imminent occurrence of any of the disasters or emergencies provided in KRS Chapter 39 such action is necessary to protect the public health or safety or in the general public welfare.

(2) Such performance shall not require expenditure of public funds, unless otherwise permitted by law, for the construction, reconstruction, or repair of private dwellings, businesses or other private facilities except that such expenditure may be made when required to provide public shelter and emergency housing or as is otherwise necessary to protect the public health or safety or in the general public welfare with the concurrence of the Adjutant General or his designated representative.

HB 631, AN ACT changing the classification of the City of Hillview, in Bullitt County.

WHEREAS, satisfactory information has been presented to the General Assembly that the population of the City of Hillview, in Bullitt County, is such as to justify its being classified as a city of the fifth class;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

The City of Hillview, in Bullitt County, is transferred from the sixth to the fifth class of cities.

HB 663, AN ACT relating to urban services.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 179.470 is amended to read as follows:

(1) In counties containing a city of the third class, and not a city of the first class, any street or road located outside of the corporate limits of an incorporated city which is a street or road of a subdivision established by a recorded plat that dedicates the street or road to public use, shall be maintained by the fiscal court of the county in the same manner that roads established under KRS 178.115 are maintained, if the street or road is at least one thousand (1000) feet in length and at least fifty per cent (50%) of the lots abutting the street or road contain houses which are occupied, and the street or road has been or shall be so constructed as to meet the approval of the county road engineer or, if there is no county road engineer, the approval of the fiscal court, such approval being based upon the established standards for county road construction within the county.

(2) Notwithstanding the provisions of KRS 178.010 (2), in counties containing a city of the first class, any street or road located in the unincorporated area of the county or in a city of the fifth or sixth class, which is a street or road of a subdivision that dedicated the street or road to public use, may be maintained by the fiscal court of the county in the same manner as provided in subsection (1) and subject to the same conditions. In addition, street lights and other improvements already established may be maintained by the fiscal court. The county shall be reimbursed for the cost of such maintenance by the abutting property owner whose proportionate share of the cost of maintenance shall be added to the owner's county tax bill and collected in the same manner as county taxes.

(3) Notwithstanding the provisions of KRS 178.010(2), in counties containing a population between 80,000 and 115,000 and a city of the second class, any street or road in an unincorporated area or a city of the sixth class of the county, which is at least 200 feet in length and dedicated to public use, may be maintained by the fiscal court of the county in the same manner as provided in subsection (1) of this section. In addition, street lights, garbage collection, water and sewer services may be provided by the fiscal court. The county shall be reimbursed for the cost of such maintenance and services by the abutting property owner whose proportionate share of the cost of maintenance and services shall be added to the owner's county tax bill and collected in the same manner as county taxes. Further, upon the petition of fifty percent (50%) or more of the abutting property owners of the street or road the fiscal court may by proper resolution provide for the improvements in same manner as the improvements set forth in KRS 94.291 to 94.325.

(4) (3) No street or road shall be accepted by fiscal court *under the provisions of subsections (2) or (3) of this section* for county maintenance unless twenty-five per cent (25%) of the abutting property owners petition the fiscal court for county maintenance. The fiscal court within thirty (30) days thereafter shall hold a public hearing on the petition. If fifty (50) per cent of the abutting property owners agree in writing to accept county maintenance the fiscal court of the county may maintain the road or street in the same manner as provided in subsection (2) *or (3) of this section as applicable* and subject to the same conditions.

HB 716, AN ACT relating to public transportation.

WHEREAS, the 1974 General Assembly enacted legislation providing financing for "mass transportation programs" including among other measures, an annual motor vehicle license fee; and

WHEREAS, Section 231 of the Kentucky Constitution would prohibit using said motor vehicle license tax for mass transportation programs; and

WHEREAS, transit authorities require additional legislative authorization for financing transportation programs;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 96A.320 is amended to read as follows:

(1) As used in KRS 96A.310 to 96A.370, the term "mass transportation program" shall mean the provision of necessary funds by public bodies to transit authorities created pursuant to KRS chapter 96A with which to acquire, operate and preserve mass transportation facilities. *A "mass transportation program" may also include a method for the public body or public bodies to finance principle and interest payments on any general obligation bonds issued pursuant to KRS 96A.120, or to finance transportation related facilities to promote the movement of vehicles and people.*

(2) Public bodies which have been parties to the creation and establishment of transit authorities, or who constitute the membership of such transit authorities, may, acting either individually or jointly, submit to either (i) the electorates of such public bodies, or (ii) the electorate of the transit area encompassed by any such transit authority, but only in the manner and pursuant to the procedures set forth in KRS 96A.310 to 96A.370, one or more proposals for the approval of a mass transportation program to be financed by additional voted levies of ad valorem taxes upon all taxable property in such public body or public bodies. Such additional voted levies of ad valorem taxes upon all taxable property in any such public body shall never exceed in the aggregate the limits prescribed by the constitution of Kentucky for any such public body.

(3) Public bodies which have been parties to the creation and establishment of transit authorities, or who constitute the membership of such transit authorities, may, acting either individually or jointly, submit to either (i) the electorates of such public bodies, or (ii) the electorate of the transit area encompassed by any such transit authority, but only in the manner and pursuant to the procedures set forth in KRS 96A.310 to 96A.370, one or more proposals for the approval of a mass transportation program to be financed by voted levies of occupational license fees. Such voted levies of occupational license fees shall not exceed one percent (1%) of (a) salaries, wages, commissions and other compensation earned by persons for work done and services performed or rendered, and (b) the net profits of businesses, trades, professions or occupations from activities conducted in the public body, or the transit area, except public service companies, banks, trust companies, combined banks and trust companies, combined trust, banking and title companies, and in all other cases where a public body is prohibited by law from imposing a license fee.

(4) Public bodies which have been parties to the creation and establishment of transit authorities, or who constitute the membership of such transit authorities, may, acting either individually or jointly, submit to either (i) the electorates of such public bodies, or (ii) the electorate of the transit area encompassed by any such transit authority, but only in the manner and pursuant to the procedures set forth in KRS 96A.310 to 96A.370, one or more proposals for the approval of a mass transportation program to be financed by the voted levy of *a sales tax upon all retailers at a rate not to exceed one-half of one percent of the gross receipts of any retailer derived from "retail sales" or "sales at retail" made within the public body or public bodies. Any sales tax levied for said purpose shall be in addition to the sales tax authorized by Chapter 139 of the Kentucky Revised Statutes. Said public transportation sales tax shall be collected and administered under the provisions of Chapter 139 of the Kentucky Revised Statutes and the rules and regulations of the Kentucky Department of Revenue. The Kentucky Department of Revenue shall refund that portion of the sales tax collected as a public transportation tax to the public body or bodies imposing said tax.* an annual motor vehicle license fee with respect to each and every motor vehicle which is legally registered within either the geographical boundaries of such public body, or the transit area of such transit authority, as appropriate, such annual motor vehicle license fee not to exceed fifteen dollars ($15) in the case of any transit authority which includes in its membership a city of the first class, and seven dollars and fifty cents ($7.50) in all other cases. As used herein, the term "motor vehicle" shall have the meaning ascribed by KRS 186.010(7)(a).

Section 2. KRS 96A.330 is amended to read as follows:

(1) Any transit authority created pursuant to the provisions of KRS chapter 96A may, by resolution duly adopted by its board in the manner prescribed by KRS 96A.060, request one or more of the public bodies which, upon the date of adoption of such resolution constitute members of such transit authority, either (i) to submit to their respective electorates, or (ii) to jointly submit to the electorate of the entire transit area encompassed by such transit authority a proposal for the approval or disapproval of a mass transportation project. Such resolution shall set forth in detail, or shall incorporate by reference a detailed study in respect of, the mass transportation program proposed for submission to such electorate or electorates, together with the proposed source or sources of funding thereof, subject to the limitations of KRS 96A.310 to 96A.370.

(2) Upon receipt of any such resolution of the board of any such transit authority, the governing body of each public body to which such resolution is directed shall cause such resolution and the study for mass transportation program contained therein to be carefully reviewed. The public body or public bodies may cause further studies to be made with respect to such request of such transit authority, and may require such transit authority to submit such further and additional data, statistics and information as may be required by such public body or public bodies in order to enable same to make a proper decision regarding any proposed mass transportation program.

(3) In the event the governing body of any such public body shall determine that the public welfare requires the establishment of the mass transportation program as proposed by such transit authority, the governing body of such public body may by resolution or ordinance determine that a proposal for the establishment of such mass transportation program shall be submitted to the electorate of such public body. Such resolution or ordinance of such public body shall describe the mass transportation program to be submitted to such electorate, together with the proposed source of funding therefor, which shall be expressed as either: (i) an ad valorem tax levy expressed as a certain maximum number of cents per each one hundred dollars ($100) of assessed valuation, subject to constitutional limits; (ii) an occupational license tax, subject to the limitations of KRS 96A.310 to 96A.370; or (iii). *A sales tax upon all retailers at a rate not to exceed one-half of one percent of the gross receipts of any retailer derived from "retail sales" or "sales at retail" as defined in KRS Chapter 139.* an annual motor vehicle license tax, subject to the limitations of KRS 96A.310 to 96A.370.

(4) In the event the membership of any such transit authority consists of more than one public body, and in the event the resolution of the board of such transit authority is directed to all such public bodies, all such public bodies may, by adoption of appropriate resolutions or ordinances determine that the proposition for the establishment of such mass transportation program, together with the identified funding source therefor, shall be submitted to the electorate of the transit area of such transit authority rather than to the separate electorates of such public bodies. In such event, the election on the proposition regarding such mass transportation program shall be held simultaneously within such transit area by all such public bodies and the notice of the election shall be uniform.

Section 3. KRS 96A.340 is amended to read as follows:

(1) The resolution or ordinance of each public body determining that a proposition for the establishment of a mass transportation program be submitted to the electorate of such public body or to the electorate of the transit area of such transit authority, as the case may be, shall in each case be published *as provided in KRS Chapter 424* in full in the newspaper or newspapers of bona fide circulation for such public bodies as provided by KRS 424.130 . Thereafter, such public body or public bodies shall cause the proposition to be prepared for submission to the electorate of either such public bodies or such transit area of the transit authority, as the case may be, at an election to be called and held for such purpose. Such election may be held upon any date stipulated by the public body or public bodies and shall be held pursuant to notice as prescribed in KRS 424.130. Said election may, but need not, be held in conjunction with a regularly scheduled November election or a primary election as otherwise provided by law. The proposal to be submitted to the electorate of such public body or public bodies, or transit area of such transit authority, as the case may be, shall be so framed that any voter who wishes to vote in favor of the mass transportation program and the financing source therefor may signify his approval by voting "yes", and any voter who wishes to vote against the mass transportation program and the funding therfor may do so by voting "No".

(2) In the event any such mass transportation program proposal is submitted to the electorate of any individual public body, such proposition and the source of funding therefor shall be approved if a majority of those voting on the proposal within the public body shall vote "yes".

(3) In the event any such mass transportation program proposal is submitted to the electorate of any transit area of any such transit authority by simultaneous submission by all public bodies who are at the time of such submission members of such transit authority, such proposition and the source of funding therefor shall be approved if a majority of those voting on the proposal within the transit area of such transit authority shall vote "yes".

(4) Any additional voted levies of ad valorem taxes approved by electorates pursuant to KRS 96A.310 to 96A.370, shall in the case of individual public bodies, be added to and constitute legal tax levies of such individual public bodies within the meaning of the constitution of Kentucky, and shall, in the case of votes taken in transit areas of transit authorities, constitute legal tax levies of each and every individual public body which is a member of any such transit authority within the meaning of the constitution of Kentucky.

Section 4. KRS 96A.350 shall be amended to read as follows:

(1) The elections herein authorized shall, in the case of any individual public body, be called and held by the particular public officials of said public body responsible for the calling and holding of general elections.

All ad valorem tax receipts, occupational tax receipts and *public transportation sales tax* mass transit license fee receipts derived in respect of any such elections shall be collected by the public officials of such public body statutorily responsible for such collection, and shall pending disbursement be held in a separate and special trust fund identified as the mass transit trust fund by said public body to be used solely and only for purposes of the mass transportation program approved by the electorate of such public body, as hereinafter provided. Moneys therefrom shall be disbursed only upon order of the chief financial officer of such public body.

(2) In the event any election authorized by KRS 96A.310 to 96A.370 is, pursuant to the provisions of KRS 96A.310 to 96A.370, to be submitted to the electorate of any transit area of a transit authority by all of the public bodies which are members of any such transit authority, and if one of such public bodies is a county which encompasses one or more additional public bodies, the clerk of the county court of such county (or the clerk of each county court in the event more than one county shall be a member of such transit authority) shall cause such election proposition to appear on the ballots or voting machine slips used in respect of the election on such proposition. All ad valorem tax receipts, occupational tax receipts and *public transportation sales tax* mass transit license fee receipts derived in respect of any such elections shall be collected *or received* by the proper public officials of such county or counties statutorily responsible for such collection *or receipt*, and shall pending disbursement be held in a separate and special trust fund identified as the mass transit trust fund to be used solely and only for purposes of the mass transportation program approved by the electorate of such transit area, as hereinafter provided. Said mass transit trust fund shall in such case be held in the custody of all public bodies which are members of such transit authority and moneys therefrom shall be disbursed only upon orders of the chief financial officers of all such public bodies.

Section 5. KRS 96A.370 shall be amended to read as follows:

(1) In addition to all other powers and rights granted by KRS chapter 96A, public bodies are expressly authorized and empowered to enter into joint agreements and multi-municipal compacts with transit authorities, and all other units of government, both federal and state, for the acquisition, maintenance and operation of mass transportation facilities. Any such agreements may provide for proportionate payments by such public bodies for transit purposes based upon any reasonable criteria, including, but not by way of limitation, population and actual mass transit services rendered, *or percentage of funding.*

(2) Any such joint agreement or multi-municipal compact may provide by its terms that notwithstanding the fact that a mass transportation program, together with the source of funding therefor, has been approved by the electorate or electorates of one or more of such public bodies, any such public body may, in any annual period, in lieu of utilizing such source of funding as approved by the electorate of any such public body, use and apply for purposes of making payments or contributions under such joint agreement or multi-municipal compact any other funds of such public body legally available therefor. Provided, however, that any source of funding approved by the electorate in connection with the approval of such a mass transportation program shall not, as a result of such permissive funding by any such public body from other legally available sources, be rendered void or nugatory.

The Committee Substitute for **HB 716** is as follows:

HB 716, AN ACT relating to public transportation.

WHEREAS, the 1974 General Assembly enacted legislation providing financing for "mass transportation programs" including among other measures, an annual motor vehicle license fee; and

WHEREAS, Section 230 of the Kentucky Constitution would prohibit using said motor vehicle license tax for mass transportation programs; and

WHEREAS, transit authorities require additional legislative authorization for financing transportation programs;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 96A.320 is amended to read as follows:

(1) As used in KRS 96A.310 to 96A.370, the term "mass transportation program" shall mean the provision of necessary funds by public bodies to transit authorities created pursuant to KRS chapter 96A with which to acquire, operate and preserve mass transportation facilities. *A "mass transportation program" may also include a method for the public body or public bodies to finance principle and interest payments on any general obligation bonds issued pursuant to KRS 96A.120, or to finance transportation related facilities to promote the movement of vehicles and people.*

(2) Public bodies which have been parties to the creation and establishment of transit authorities, or who constitute the membership of such transit authorities, may, acting either individually or jointly, submit to either (i) the electorates of such public bodies, or (ii) the electorate of the transit area encompassed by any such transit authority, but only in the manner and pursuant to the procedures set forth in KRS 96A.310 to 96A.370, one or more proposals for the approval of a mass transportation program to be financed by additional voted levies of ad valorem taxes upon all taxable property in such public body or public bodies. Such additional voted levies of ad valorem taxes upon all taxable property in any such public body shall never exceed in the aggregate the limits prescribed by the constitution of Kentucky for any such public body.

(3) Public bodies which have been parties to the creation and establishment of transit authorities, or who constitute the membership of such transit authorities, may, acting either individually or jointly, submit to either (i) the electorates of such public bodies, or (ii) the electorate of the transit area encompassed by any such transit authority, but only in the manner and pursuant to the procedures set forth in KRS 96A.310 to 96A.370, one or more proposals for the approval of a mass transportation program to be financed by voted levies of occupational license fees. Such voted levies of occupational license fees shall not exceed one percent (1%) of (a) salaries, wages, commissions and other compensation earned by persons for work done and services performed or rendered, and (b) the net profits of businesses, trades, professions or occupations from activities conducted in the public body, or the transit area, except public service companies, banks, trust companies, combined banks and trust companies, combined trust, banking and title companies, and in all other cases where a public body is prohibited by law from imposing a license fee.

(4) Public bodies which have been parties to the creation and establishment of transit authorities, or who constitute the membership of such transit authorities, may, acting either individually or jointly, submit to either (i) the electorates of such public bodies, or (ii) the electorate of the transit area encompassed by any such transit authority, but only in the manner and pursuant to the procedures set forth in KRS 96A.310 to 96A.370, one or more proposals for the approval of a mass transportation program to be financed by the voted levy of *a sales tax upon all retailers at a rate not to exceed one-half of one percent of the gross receipts of any retailer derived from "retail sales" or "sales at retail" made within the public body or public bodies. Any sales tax levied for said purpose shall be in addition to the sales tax authorized by Chapter 139 of the Kentucky Revised Statutes. Said public transportation sales tax shall be collected and administered under the provisions of Chapter 139 of the Kentucky Revised Statutes and the rules and regulations of the Kentucky Department of Revenue. The Kentucky Department of Revenue shall refund that portion of the sales tax collected as a public transportation tax to the public body or bodies imposing said tax. Notwithstanding any other provision contrary hereto, a mass transportation program financed by a public body or public bodies from said sales tax shall be restricted by the following order of priorities, to wit: first, the annual payment of principle, interest and sinking fund requirements on any general obligation bonds issued pursuant to KRS 96A.120; second, appropriations to the transit authority to provide local matching funds for any available federal or state capital, operating or planning and demonstration grant projects in accordance with the annual approved budget; and third, any excess funds in the control of each public body receiving said tax shall be transferred to the general fund of each such public body for public transportation and traffic improvement projects at any location within a city or county, in any manner which said public body or public bodies determine will improve transportation, road or traffic conditions, or in general will promote the movement of people and vehicles.* an annual motor vehicle license fee with respect to each and every motor vehicle which is legally registered within either the geographical boundaries of such public body, or the transit area of such transit authority, as appropriate, such annual motor vehicle license fee not to exceed fifteen dollars ($15) in the case of any transit authority which includes in its membership a city of the first class, and seven dollars and fifty cents ($7.50) in all other cases. As used herein, the term "motor vehicle" shall have the meaning ascribed by KRS 186.010(7)(a).

Section 2. KRS 96A.330 is amended to read as follows:

(1) Any transit authority created pursuant to the provisions of KRS chapter 96A may, by resolution duly adopted by its board in the manner prescribed by KRS 96A.060, request one or more of the public bodies which, upon the date of adoption of such resolution constitute members of such transit authority, either (i) to submit to their respective electorates, or (ii) to jointly submit to the electorate of the entire transit area encompassed by such transit authority a proposal for the approval or disapproval of a mass transportation project. Such resolution shall set forth in detail, or shall incorporate by reference a detailed study in respect of, the mass transportation program proposed for submission to such electorate or electorates, together with the proposed source or sources of funding thereof, subject to the limitations of KRS 96A.310 to 96A.370.

(2) Upon receipt of any such resolution of the board of any such transit authority, the governing body of each public body to which such resolution is directed shall cause such resolution and the study for mass transportation program contained therein to be carefully reviewed. The public body or public bodies may cause further studies to be made with respect to such request of such transit authority, and may require such transit authority to submit such further and additional data, statistics and information as may be required by such

public body or public bodies in order to enable same to make a proper decision regarding any proposed mass transportation program.

(3) In the event the governing body of any such public body shall determine that the public welfare requires the establishment of the mass transportation program as proposed by such transit authority, the governing body of such public body may by resolution or ordinance determine that a proposal for the establishment of such mass transportation program shall be submitted to the electorate of such public body. Such resolution or ordinance of such public body shall describe the mass transportation program to be submitted to such electorate, together with the proposed source of funding therefor, which shall be expressed as either: (i) an ad valorem tax levy expressed as a certain maximum number of cents per each one hundred dollars ($100) of assessed valuation, subject to constitutional limits; (ii) an occupational license tax, subject to the limitations of KRS 96A.310 to 96A.370; or (iii). *A sales tax upon all retailers at a rate not to exceed one-half of one percent of the gross receipts of any retailer derived from "retail sales" or "sales at retail" as defined in KRS Chapter 139.* an annual motor vehicle license tax, subject to the limitations of KRS 96A.310 to 96A.370.

(4) In the event the membership of any such transit authority consists of more than one public body, and in the event the resolution of the board of such transit authority is directed to all such public bodies, all such public bodies may, by adoption of appropriate resolutions or ordinances determine that the proposition for the establishment of such mass transportation program, together with the identified funding source therefor, shall be submitted to the electorate of the transit area of such transit authority rather than to the separate electorates of such public bodies. In such event, the election on the proposition regarding such mass transportation program shall be held simultaneously within such transit area by all such public bodies and the notice of the election shall be uniform.

Section 3. KRS 96A.340 is amended to read as follows:

(1) The resolution or ordinance of each public body determining that a proposition for the establishment of a mass transportation program be submitted to the electorate of such public body or to the electorate of the transit area of such transit authority, as the case may be, shall in each case be published *as provided in KRS Chapter 424* in full in the newspaper or newspapers of bona fide circulation for such public bodies as provided by KRS 424.130 . Thereafter, such public body or public bodies shall cause the proposition to be prepared for submission to the electorate of either such public bodies or such transit area of the transit authority, as the case may be, at an election to be called and held for such purpose. Such election may be held upon any date stipulated by the public body or public bodies and shall be held pursuant to notice as prescribed in KRS 424.130. Said election may, but need not, be held in conjunction with a regularly scheduled November election or a primary election as otherwise provided by law. The proposal to be submitted to the electorate of such public body or public bodies, or transit area of such transit authority, as the case may be, shall be so framed that any voter who wishes to vote in favor of the mass transportation program and the financing source therefor may signify his approval by voting "yes", and any voter who wishes to vote against the mass transportation program and the funding therfor may do so by voting "No".

(2) In the event any such mass transportation program proposal is submitted to the electorate of any individual public body, such proposition and the source of funding therefor shall be approved if a majority of those voting on the proposal within the public body shall vote "yes".

(3) In the event any such mass transportation program proposal is submitted to the electorate of any transit area of any such transit authority by simultaneous submission by all public bodies who are at the time of such submission members of such transit authority, such proposition and the source of funding therefor shall be approved if a majority of those voting on the proposal within the transit area of such transit authority shall vote "yes".

(4) Any additional voted levies of ad valorem taxes approved by electorates pursuant to KRS 96A.310 to 96A.370, shall in the case of individual public bodies, be added to and constitute legal tax levies of such individual public bodies within the meaning of the constitution of Kentucky, and shall, in the case of votes taken in transit areas of transit authorities, constitute legal tax levies of each and every individual public body which is a member of any such transit authority within the meaning of the constitution of Kentucky.

Section 4. KRS 96A.350 shall be amended to read as follows:

(1) The elections herein authorized shall, in the case of any individual public body, be called and held by the particular public officials of said public body responsible for the calling and holding of general elections. All ad valorem tax receipts, occupational tax receipts and *public transportation sales tax* mass transit license fee receipts derived in respect of any such elections shall be collected by the public officials of such public body statutorily responsible for such collection, and shall pending disbursement be held in a separate and special trust fund identified as the mass transit trust fund by said public body to be used solely and only for purposes of the mass transportation program approved by the electorate of such public body, as hereinafter provided. Moneys therefrom shall be disbursed only upon order of the chief financial officer of such public body.

(2) In the event any election authorized by KRS 96A.310 to 96A.370 is, pursuant to the provisions of KRS 96A.310 to 96A.370, to be submitted to the electorate of any transit area of a transit authority by all of the public bodies which are members of any such transit authority, and if one of such public bodies is a county which encompasses one or more additional public bodies, the clerk of the county court of such county (or the clerk of each county court in the event more than one county shall be a member of such transit authority) shall cause such election proposition to appear on the ballots or voting machine slips used in respect of the election on such proposition. All ad valorem tax receipts, occupational tax receipts and *public transportation sales tax* mass transit license fee receipts derived in respect of any such elections shall be collected *or received* by the proper public officials of such county or counties statutorily responsible for such collection *or receipt*, and shall pending disbursement be held in a separate and special trust fund identified as the mass transit trust fund to be used solely and only for purposes of the mass transportation program approved by the electorate of such transit area, as hereinafter provided. Said mass transit trust fund shall in such case be held in the custody of all public bodies which are members of such transit authority and moneys therefrom shall be disbursed only upon orders of the chief financial officers of all such public bodies.

Section 5. KRS 96A.370 shall be amended to read as follows:

(1) In addition to all other powers and rights granted by KRS chapter 96A, public bodies are expressly authorized and empowered to enter into joint agreements and multi-municipal compacts with transit authorities, and all other units of government, both federal and state, for the acquisition, maintenance and operation of mass transportation facilities. Any such agreements may provide for proportionate payments by such public bodies for transit purposes based upon any reasonable criteria, including, but not by way of limitation, population and actual mass transit services rendered, *or percentage of funding.*

(2) Any such joint agreement or multi-municipal compact may provide by its terms that notwithstanding the fact that a mass transportation program, together with the source of funding therefor, has been approved by the electorate or electorates of one or more of such public bodies, any such public body may, in any annual period, in lieu of utilizing such source of funding as approved by the electorate of any such public body, use and apply for purposes of making payments or contributions under such joint agreement or multi-municipal compact any other funds of such public body legally available therefor. Provided, however, that any source of funding approved by the electorate in connection with the approval of such a mass transportation program shall not, as a result of such permissive funding by any such public body from other legally available sources, be rendered void or nugatory.

HR 58, A RESOLUTION directing a study by the Legislative Research Commission of regulation of the building and housing industry in Kentucky.

WHEREAS, efficient and effective regulation of the building and housing industry in Kentucky is of great importance to providing for consumer safety and comfort, insuring quality construction, conserving energy, holding building and housing costs to a minimum consistent with safety and durability of construction, and insuring adequate levels of building and housing construction;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Legislative Research Commission is directed to conduct, during the 1976-1978 interim and through the Interim Committee on Cities, a study of regulation of the building and housing industry in Kentucky, and to recommend legislation, as necessary, providing for more efficient and effective regulation of said industry for consideration by the 1978 regular session of the General Assembly.

Section 2. Staff services to be utilized in completing this study are estimated to cost $8,000. These staff services shall be provided from the regular Commission budget and are subject to the limitations and other research responsibilities of the Commission.

SB 181, AN ACT changing the classifcation of the City of Audubon Park, in Jefferson County.

WHEREAS, satisfactory information has been presented to the General Assembly that the population of the City of Audubon Park, in Jefferson County, is such as to justify its being classified as a city of the fifth class,

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

The City of Audubon Park, in Jefferson County, is transferred from the sixth to the fifth class of cities.

The Committee on Education reported **HB 241, HB 281, HB 284** with Committee Amendment attached thereto, **HB 320, HB 333, HB 705,** and **HB 732** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 241, AN ACT relating to the common schools.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 161.152 is amended to read as follows:

(1) For the purpose of this section, "school personnel" shall mean any person employed as a full time employe in the public schools.

(2) Each district board of education may allow each person employed as a full-time employe in the public schools not to exceed *five (5)* three (3) emergency days per school year for reasons designated by the district board of education, without loss of salary to the employe and without affecting his sick leave.

(3) Personal leave granted under this section shall not be treated as having effect on the provisions of KRS 161.155.

(4) Payments made by a district board of education under the provisions of this section are presumed to be for services rendered and for the benefit of the common schools and the payments do not affect the eligibility of any school district to participate in the foundation program as established in KRS chapter 157.

HB 281, AN ACT relating to suspension of contracts of certified public school employes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 161 is created to read as follows:

As used in this Act, unless the context otherwise requires:

(1) "Board" means a school district board of education, as established by KRS 160.160.

(2) "Teacher" means a board employe for whom certification is required as a condition of employment with the exception of the superintendent of schools and assistant superintendents appointed under KRS 160.360.

(3) "Suspended or suspension," as it relates to a teacher's contract of employment with a board, means a status caused by board action, under KRS 161.750, not to reemploy a teacher where the reasons for such non-reemployment are among those set forth in Section (2) of this Act or by displacement; and, does not relate to contract termination or suspension under KRS 161.790, or KRS 156.132, et. seq., contract termination by reason of resignation or retirement, or to a contract that has not been renewed for cause under KRS 161.750. The status herein defined will terminate when a teacher is reinstated under provisions of this Act, when written resignation by the teacher has been accepted by the board, or when a teacher refuses an offer of reinstatement that has been served by the board in writing.

(4) "Seniority" as it relates to a teacher means a period of time beginning on the date the board currently employing the teacher took action to hire the teacher, said date to be determined by reference to official board minutes, and ending at the present time; said period of time is not diminished or reduced by any form of leave, vacation, time off between school terms or periods of contract suspension. If there is a consolidation, merger or combination of school districts, either whole or partial, resulting in teachers being employed by a different board, the period of time calculated under this subsection, as it applies to said teachers, shall begin on the date said teachers were hired by the board employing them immediately prior to said consolidation, merger or combination of school districts.

(5) "Certified or certification" means the procedures established by KRS 161.010 to KRS 161.126 and State Board of Education regulations adopted under authority of said statutes for determining eligibility of teachers to hold various positions and to teach certain grade levels or courses in the public schools of Kentucky.

(6) "Displace or displacement" means a process by which a teacher exercises an option to assume a position held by another teacher who has less seniority. Said option shall be exercised only if:

(a) The teacher is certified to hold the position held by the teacher with less seniority; and

(b) Failure to do so will cause the teacher to become a suspended teacher or will cause the teacher to receive a lower salary than will otherwise be paid.

Section 2. A new section of KRS Chapter 161 is created to read as follows:

If it is necessary for a board to reduce the number of its teachers by reason of:

(a) Decreased enrollment of pupils;

(b) Merger, centralization, consolidation or any other combination of school districts;

(c) Merger, centralization, consolidation or any other change in status of schools, departments or operations, within a school district;

(d) Whole or partial suspension or elimination of operations within a school district;

(e) Elimination or decrease of funding for all or any part of school programs or operations;

(f) Budgetary or financial deficiencies, either actual or prospective;

(g) Increase in the ratio of pupils to each teacher in the school district, grouping of schools, individual school, department, program or course of study; or

(h) Any combination of reasons provided in subsections (a) to (g) of this section;

The board shall accomplish such reduction by suspending, on recommendation of the superintendent, the contracts of teachers who have the least seniority.

Section 3. A new section of KRS Chapter 161 is created to read as follows:

(1) In the event a teacher holds a position with the board that has been eliminated for reasons stated in Section 2 of this Act, if a teacher's contract has not been renewed for reasons stated in said section, or if a teacher has been displaced, that teacher may elect to displace another teacher only if the conditions set forth in subsection (6) of Section 1 of this Act are met. If one teacher elects to displace another, said election may only be exercised to displace the teacher with least seniority in the school system, who holds a position which would not require a salary deduction to the displacing teacher; however, if no positions for which the same salary would be paid are available, the teacher may displace the least senior teacher in the next lower salary category, and so on.

(2) When a position to be filled by a teacher becomes available in a school district, the board shall fill that position with a teacher from the suspension list, who is certified to hold the position, order of seniority.

(3) The board shall maintain a current roster of teachers employed in its school district which will show the seniority and general areas of certification for each teacher. A similar suspension roster shall be maintained. A copy of such rosters shall be furnished to teachers, or their representative, on request and specific information relating to certification of teachers shall likewise be furnished to teachers who have been notified of suspension or displacement under provisions of this Act.

Section 4. A new section of KRS Chapter 161 is created to read as follows:

(1) Notice by the board of suspension and displacement under this section shall be presented to the teacher in the same manner as notice of board intent not to reemploy a teacher under KRS 161.750. Notices of suspension and displacement required subsequent to first such notices served upon teachers need not comply with time limitations established by KRS 161.750; teachers who are displaced shall likewise be deemed exceptions for time limitations imposed by KRS 161.760. Displacement shall not be considered as demotion for purposes of KRS 161.720 and KRS 161.765.

(2) Notice of intent to displace another teacher in accordance with this section shall be presented, on a form prepared by the board, to the superintendent of schools within one working day from the time the teacher has been furnished specific information on certification of teachers under subsection (3) of Section 3 of this Act, or from the time preference of a teacher is determined under subsection (1) of Section 5 of this Act, whichever may be later.

Section 5. A new section of KRS Chapter 161 is created to read as follows:

(1) Preference in suspension displacement and reinstatement from suspension shall be given to teachers with greatest seniority. Where teachers have equal seniority, preference, wherever required, shall be determined as follows:

(a) Initial preference shall be given to teachers with highest rank as determined by KRS 157.390 or KRS 157A.080 or subclassifications of said rank as reflected in the board's teacher salary schedule;

(b) If preference is not determined by the above method, the superintendent of schools will conduct a drawing at hazard with the teachers affected having opportunity to participate in the drawing procedure and preference shall be given to the persons determined by said drawing.

(2) Determinations of preference, in accordance with this section, shall be made by the board whenever the rosters referred to in subsection (3) of Section 3 of this Act show teachers with equal seniority.

Section 6. A new section of KRS Chapter 161 is created to read as follows:
If a board of education adopts an affirmative action program for the purpose of taking positive steps to offset the continuing effects of discrimination against minority persons and women that may have existed in the past, and to eliminate the occurrence of such discriminatory employment practices in the future, and, as a result of said affirmative action program, policies or regulations governing the employment or assignment minority persons or women to schools, departments, bureaus, personnel categories or any program operated by a board, the provisions of this Act notwithstanding; seniority, and teacher rank, as it may operate to give preference in suspension or displacement of teachers, and seniority, as it affects reinstatement from suspension, shall be waived if failure to so waive will result in violation of policies or regulations adopted under the affirmative action program.

Section 7. KRS 161.810 is amended to read as follows:
If there is consolidation, merger, centralization, or combination of school districts, either whole or partial, the teachers who become employed by a new or different board of education as a result of such consolidation, merger, centralization or combination of school districts shall hold the same kind of contract and status, as defined in KRS 161.720, as they held immediately prior to employment by such new or different board of education. If an entire school district or that part of a school district which comprises the territory in which a school or schools are situated is transferred to any other district, or if the schools in an independent or county school district are consolidated or centralized, the teachers in such consolidated or centralized schools employed on continuing contracts immediately prior to such transfer, consolidation, or centralization shall, subject to the limitations imposed by KRS 161.800, have continuing service status in the newly centralized or consolidated school, or in the district to which the territory is transferred.

Section 8. KRS 161.800 is repealed.

HB 284, AN ACT relating to education.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 161 is created to read as follows:
(1) The State Board of Education, upon the recommendation of the Superintendent of Public Instruction, shall establish a standard pay scale for substitute teachers employed in the school districts of the Commonwealth. Such standard pay scale shall provide for the compensation of substitute teachers at a rate equal to that of teachers employed on a full-time basis in the school districts of the Commonwealth.
(2) Each local board of education shall file with the monthly financial report the number of substitute teachers employed by the board for that month.

The Committee Amendment to **HB 284** is as follows:

Amend printed copy of **HB 284,** page 1, lines 8 and 9, by striking the words "equal to that of teachers employed on a full-time basis" and by substituting in lieu thereof the words "prescribed by the state Board of Education based on the qualifications of the substitute teachers."

HB 320, AN ACT relating to the common schools.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS 158 is created to read as follows:
A brief prayer may be offered before class in the common schools of Kentucky. However, no student shall be required to participate in the prayer against the wish of his parents or guardian.

HB 333, AN ACT relating to recitation of the Lord's Prayer and the pledge of allegiance in public elementary schools.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

As a continuation of the policy of teaching our country's history and as an affirmation of the freedom of religion in this country, the board of education of a local school district may authorize the recitation of the traditional Lord's prayer and the pledge of allegiance to the flag in public elementary schools. Pupil participation in the recitation of the prayer and pledge of allegiance shall be voluntary. Pupils shall be reminded that this Lord's prayer is the prayer our pilgrim fathers recited when they came to this country in their search for freedom. Pupils shall be informed that these exercises are not meant to influence an individual's personal religious beliefs in any manner. The exercises shall be conducted so that pupils shall learn of our great freedoms, including the freedom of religion and symbolized by the recitation of the Lord's prayer.

HB 705, AN ACT relating to the length of the school day.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 158.060 is amended to read as follows:

Twenty (20) school days, or days in which teachers are actually employed in the schoolroom, shall constitute a school month in the common schools. The legal holidays designated by the state board of education to be observed may include the first Tuesday after the first Monday in November of each year and shall be counted as school days. No teacher shall teach on Saturdays except in cases of emergency and then only upon authorization of the state board of education. *Except for children attending kindergarten, readiness classes, and first grade classes, who may attend a program of less than six (6) hours per day under policy adopted by the local school district board of education and approved by the state board of education, six* Six (6) hours of actual school work shall constitute a school day. The daily session, including recesses and intermissions, shall not exceed nine (9) hours. A pupil who is absent, excused or dismissed from any regularly scheduled class to attend not more than four (4) field trips in a school term may be considered in attendance on those days, if the field trip is part of a regularly scheduled class; Provided, however, That upon application of any district superintendent, the superintendent of public instruction or the state board of education may, if sufficient cause be shown, grant authority to use an additional day or days for special field trips or exceptional events.

HB 732, AN ACT relating to the Teachers' Retirement System of the State of Kentucky.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 161.220 is amended to read as follows:

As used in KRS 161.220 to 161.710:

(1) "Retirement system" means the arrangement provided for in KRS 161.230 to 161.710 for payment of allowances to teachers.

(2) "Retirement allowance" means the amount annually payable during the course of his natural life to a member who has been retired by reason of service.

(3) "Disability allowance" means the amount annually payable to a member retired by reason of disability.

(4) "Teacher" means any member of a local retirement system who became a member of the state teachers' retirement system according to the provisions of Acts, 1938, 1st ex.s., c. 1, paragraph 49; and any regular or special teacher, supervisor or administrator occupying a position requiring certification by the state department of education or a professional level of training, as a condition of employment, and who is employed by public boards, institutions, or agencies as follows:

(a) Local boards of education;

(b) Eastern Kentucky State University, Kentucky State University, Morehead State University, Murray State University, Western Kentucky University, and any community or junior colleges established under the control of any of the above;

(c) State and area vocational schools, Kentucky school for the blind, and Kentucky school for the deaf;

(d) The state department of education, Kentucky authority for educational television, and such members of the administrative staff of the teachers' retirement system of the state of Kentucky as the board of trustees may designate by regulation; and

(e) Regional cooperative organizations formed by local boards of education and/or other public educational institutions listed in this subsection, for the purpose of providing educational services to the participating organizations.

(f) All full-time members of the staffs of the Kentucky association of school administrators, Kentucky education association, Kentucky high school athletic association and the Kentucky school boards association who were members of the Kentucky teachers' retirement system *or were qualified for a position covered by the system* at the time of employment by the association in the event that the board of directors of the respective association petition to be included. The board of trustees of the Kentucky teachers' retirement system may designate by regulation whether part-time *employees* members of the petitioning association are to be included. The state shall make no contributions on account of such *employees* members , either full-time or part-time. The association shall make the employer's contributions as required herein. The provisions of this paragraph shall be applicable to such *persons* members in the employ of the associations on or subsequent to July 1, 1972.

(5) "Present teacher" means any teacher who was a teacher on or before July 1, 1940, and became a member of the retirement system created by Acts 1938, 1st ex.s., c. 1, on the date of the inauguration of the system or within one year after that date, and any teacher who was a member of a local teacher retirement system in the public elementary or secondary schools of the state on or before July 1, 1940, and continued to be a member of such system until he, with the membership of the local retirement system, became a member of the state teachers' retirement system or who becomes a member under the provisions of KRS 161.470 (4).

(6) "New teacher" means any teacher not a present teacher.

(7) "Prior service" means the number of years during which the member was a teacher in Kentucky prior to July 1, 1941, except that not more than thirty years' prior service shall be allowed or credited to any teacher.

(8) "Subsequent service" means the number of years during which the teacher is a member of the teachers' retirement system after July 1, 1941.

(9) *"Final average salary" means the average of the five highest annual salaries which the member has received for service in a covered position and on which the member has made contributions, or the average of the five years of highest salaries as defined in KRS 61.680(2)(a).* "Annual salary" means the average annual salary which the member has received for his service as a teacher in the public schools of Kentucky for five years or for as many years if less than five, prior to July 1, 1941, except that any salary which exceeds two thousand dollars shall be considered two thousand dollars. Any salary subsequent to July 1, 1941, for service in a covered position in Kentucky on which the member has made contributions shall be the actual arithmetic average salary for the five highest years.

(10) "Annual compensation" means the contractual salary and additions thereto received by a member as compensation for services as a teacher in the public schools of Kentucky during a fiscal year before any deductions.

(11) "Age of retirement" means the age attained as of July 1 of the fiscal year in which retirement is to be effective.

(12) "Age of entrance" means the age attained at the last birthday of any member at the time of the establishment of the retirement system, if the member was a member subject to membership in the system at that time. Otherwise it means the age attained as of July 1 of the fiscal year in which he first becomes a member of the retirement system. Any birthday occurring on February 29 shall be considered as occurring on February 28.

(13) "Regular interest" means interest at three percent per annum.

(14) "Accumulated contributions" means the contributions of a member to the teachers' savings fund for retirement annuity plus accrued regular interest.

(15) "Annuitant" means a person who receives a retirement allowance or a disability allowance.

(16) "Local retirement system" means any teacher retirement or annuity system created in any public school district in Kentucky in accordance with the laws of Kentucky.

(17) "Fiscal year" means the twelve-month period from July 1 to June 30.

(18) "Public schools" means the schools and other institutions mentioned in subsection (4) of this section.

(19) "Dependent" as used in KRS 161.520 and 161.525 means a person who was receiving, at the time of death of the member, at least one-half of the support from the member for maintenance, including board, lodging, medical care and like costs.

(20) "Last earned annual compensation" means the gross compensation before any deduction earned by the member for the last full payroll period, multiplied by the number of payroll periods in the member's contract year.

(21) "Active contributing member" means a member currently making contributions to the teachers' retirement system or who made such contributions in the next preceding fiscal year.

(22) "Regular teacher, supervisor, or administrator", when used to determine eligibility for membership in the retirement system, means a professional employe holding a position which requires services on a continuing basis equal to at least seven-tenths of normal full-time service on a daily or weekly basis.

Section 2. KRS 161.290 is amended to read as follows:

(1) The members of the board of trustees shall serve without compensation except that elective trustees shall receive *sixty* forty-five dollars for each day the board is in session and all trustees shall be reimbursed from the expense fund for all necessary expenses they incur through service on the board. Suitable office quarters for the operation of the retirement system shall be provided by the state at the capital.

(2) The board of trustees may authorize a per diem, not to exceed sixty dollars per day for trustees representing the system on committees or commissions established by statute or for service as an official representative of the board of trustees.

Section 3. KRS 161.340 is amended to read as follows:

(1) The board of trustees shall elect from its membership a *chairperson* chairman and a vice *chairperson* chairman on an annual basis as prescribed by the rules and regulations of the board of trustees. It shall appoint an executive secretary and fix *the* his compensation *for this position* without limitation of the provisions of KRS Chapter 18 and KRS 64.640, except that such compensation shall not exceed the maximum set for Commissioners by KRS 64.640 (2). *The compensation set by the board of trustees for the position of executive secretary may provide for the same annual leave, sick leave, insurance and similar benefits as provided for other employees of the retirement system.* The executive secretary, at the time of his appointment or selection, shall be a graduate of a standard four-year college, and shall possess such other qualifications as the board of trustees may require by regulation. *The executive secretary* He shall not have held by appointment or election an elective public office within the five-year period next preceding the date of appointment or selection.

(2) The board shall employ such clerical, administrative, and other personnel as are required to transact the business of the retirement system. The compensation of all such persons employed by the board shall be paid at such rates and in such amounts as the board approves subject to the approval of the Commissioner of Personnel.

(3) The board shall contract for such actuarial, auditing, medical, investment counseling, and other professional or technical services as are required to carry out the obligations of the board without limitations of KRS chapter 56 and KRS 45.360, *and shall provide for legal counsel and such other legal services as may be required in defense of trustees, officers and employees of the system who may be subjected to civil action arising from the performance of their legally assigned duties.*

Section 4. KRS 161.400 is amended to read as follows:

(1) The board of trustees shall designate as actuary a competent person who shall be a *fellow* member of the conference of actuaries in public practice or *a member of* the *American Academy* society of actuaries. He shall be the technical adviser of the board on matters regarding the operation of the funds of the system and shall perform such other duties as are required in connection therewith. At least once in each ten (10) year period after the first year of operation of the system the actuary shall make an actuarial investigation into the mortality, earnable interest and service and compensation of the members and beneficiaries of the retirement system, make a valuation of the assets and liabilities of the funds of the system and recommend to the board of trustees such changes as may be deemed necessary to keep the retirement system on a sound financial basis. On the basis of the results of such investigations the board of trustees shall make necessary changes in the retirement system within the provisions of law and shall recommend the contributions payable by the state within the limits specified in KRS 161.550. At least once in each two (2) year period the actuary shall make an actuarial valuation of the retirement system.

(2) Actuarial factors in use by the retirement system for all purposes shall be determined by the actuary of the retirement system and approved by the board of trustees.

Section 5. KRS 161.470 is amended to read as follows:

(1) The membership of the retirement system shall consist of all new teachers and all present teachers except as provided in Acts, 1938, 1st ex.s., c. 1, paragraph 29. No person without previous Kentucky service who was age sixty-five or older on July 1, next preceding employment may become a member of the teachers' retirement system.

(2) Service credit shall be forfeited upon withdrawal. If a teacher again enters service it shall be as a new teacher, except that any teacher who withdraws by claiming his deposits may repay the system the amount withdrawn plus interest and re-establish his service credit as provided in KRS 161.470(3).

(3) Effective July 1, 1974, and thereafter, an active contributing member of the retirement system with contributing service equal to two years or the number of years subsequent to the withdrawal of contributions, whichever is the lesser number, may regain such service credit by depositing in the teachers' savings fund the amount withdrawn with interest at the rate to be set by the board of trustees, and computed from the first of the month of withdrawal and including the month of redeposit.

(4) Effective July 1, 1974, any active contributing member with at least *two* three years of *contributing* service credit who declined membership as provided in Acts, 1938, 1st ex.s., c. 1, paragraph 29, may secure service credit for prior service, and for any subsequent service prior to date of membership, by depositing in the teachers' savings fund contributions for each year of subsequent service prior to date of membership, with interest at the rate of six percent compounded annually to the date of deposit.

(5) Membership in the retirement system shall be terminated:

(a) By retirement for service;

(b) By death; *or*

(c) By withdrawal of the member's accumulated contributions; or

(d) When a teacher, having less than five years of Kentucky service, is absent from service for more than six consecutive years. A member who has completed five years of Kentucky service may elect to leave his deposits with the system and retire as set forth in KRS 161.600, subsection (1).

(6) In case of withdrawal from service prior to eligibility for retirement, the board of trustees shall on request of the teacher return all of his accumulated contributions *with regular interest including any payments made by the teacher to the state accumulation fund*, but the teacher shall have no claim on any contributions made by the state with a view to his retirement or to any contributions made to the hospital and medical insurance fund, or the survivors and death benefit fund. If the member is eligible for an immediate service retirement allowance as provided in KRS 161.600 no withdrawal and refund shall be permitted, but in lieu thereof the teacher shall be entitled to a retirement allowance.

(7) Except as provided in KRS 161.520 and 161.525 in case of death prior to retirement the board of trustees shall pay to the estate of the deceased member or to his assigns all of his accumulated contributions, with regular interest, *including any payments made by the teacher to the state accumulation fund*, but the estate or assigns shall have no claim on any contributions made by the state with a view to the retirement of the teacher or to any contributions made to the hospital and medical insurance fund or the survivors and death benefit fund.

(8) Any active contributing member of the Kentucky employes retirement system, the county employes retirement system, the state police retirement system, or the judicial retirement system may use service, under such retirement system for the purpose of meeting the service requirement of subsections (3) *and (4)* of this section.

Section 6. KRS 161.480 is amended to read as follows:

(1) Each person, upon becoming a member of the retirement system shall file a detailed statement as required by the board of trustees and shall designate a beneficiary to receive any benefits accruing from the death of the member. This designation shall remain in full force and effect until changed by the member except that subsequent marriage *or divorce* by the member shall void the designation and the spouse of the member at death shall be considered as beneficiary *in the event of subsequent marriage, and the estate of the member shall be considered as beneficiary in the event of subsequent divorce,* unless the member subsequent to marriage *or divorce* designates another beneficiary. The provisions of this section shall be retroactive *as they relate to election of beneficiaries by members still in active status on the effective date of this section.*

(2) Each retiree shall, prior to the effective date of retirement, designate a beneficiary who shall be eligible to receive such survivors benefits as may be provided by the retirement option selected by the retiree. A beneficiary designation may not be changed after the effective date of retirement under either of the joint and last survivor options provided by the system.

Section 7. KRS 161.507 is amended to read as follows:

(1) A member of the teachers' retirement system may receive credit for active service rendered in the armed forces of the United States subject to regulations established by the board of trustees. Such service may be credited only if discharge was other than dishonorable. Service shall be considered as Kentucky teaching service, except that it may not be used for meeting the service requirements set forth in KRS 161.470 (5)(d), 161.600(1)*(a)* or 161.661(1). A maximum of six years of such service may be credited but in no case a greater number of years than the actual years of contributing service in Kentucky.

(2) A member having twenty years or more of active duty in the military service, and who is qualified for regular federal retirement benefits based on such service, may not receive credit for any such service in the teachers' retirement system. This subsection shall apply to service presented for credit on July 1, 1975, and thereafter.

(3) A member receiving retirement credit for active duty in the armed services of the United States shall contribute to the retirement system an amount equal to thirty-five percent of the actuarial cost for each year of service so credited if the active duty was performed after July 1, 1976. In purchasing retirement credit for active duty in the armed services the latest years of service shall be considered first in allowing credit toward retirement. The board of trustees shall adopt a table of actuarial factors to be used in calculating the amount of contribution required for crediting such service.

Section 8. KRS 161.510 is amended to read as follows:

A teacher who was not employed for the 1941-42 school year but who was employed as a teacher in this state prior to the 1941-42 school year shall, when again employed, be considered a new teacher, and membership in the retirement system shall be compulsory for him. He may receive credit for prior service when he produces evidence that he was regularly employed as a teacher prior to July 1, 1941, *and has completed at least seven-tenths of a year of service after July 1, 1941.*

Section 9. KRS 161.515 is amended to read as follows:

(1) For the purposes of this section, "out-of-state service" shall mean service in any state in a comparable position, which would be covered if in Kentucky.

(2) (a) A member in active contributing status who has been a *contributing* member of the retirement system for at least one full scholastic year, subsequent to the latest out-of-state service, may present for credit, service rendered out-of-state subsequent to July 1, 1941 , not to exceed eight such years actually taught as a certified or licensed teacher, provided such member pays to the retirement system *an* the amount *equal to the current member contribution to the retirement system based on the first Kentucky salary of the member subsequent to the out-of-state service* he would have paid had he been teaching in Kentucky and in addition thereto interest at a rate to be set by the board of trustees on each annual contribution from the last day of the scholastic year in which the service was rendered to date of payment to the retirement system. For each year of which the retirement system shall accept the contribution and interest, one year of subsequent service credit shall be given. *Such credit may not be used to meet the service requirements of KRS 161.525, 161.600 or 161.661 except as provided in subsection (2)(c) of this section.* No credit shall be granted for service which has been or will be used in qualifying for annuity benefit payments from another retirement system financed wholly or in part by public funds.

(b) For each such year so paid for and for any additional years for which contributions have been paid currently, not to exceed eight years in all, any member of the retirement system may offer bona fide out-of-state service for credits as prior service but not a greater number of years than the number for which contributions are paid, and in no case more than eight years of service prior to July 1, 1941. If out-of-state service was rendered in 1940-41 then contributions must be made for this year in the same manner as described under paragraph (a) of this subsection. No credit shall be granted for service which has been or will be used in qualifying for annuity benefit payments from another retirement system financed wholly or in part by public funds. All such service, both subsequent and prior, shall be certified to by the member and verified according to KRS 161.480 and 161.490.

(b) (c) A member of the retirement system having teaching service in the elementary or secondary schools operated by the United States overseas or in this country, or in a public college or university in Kentucky, not included in the teachers' retirement system of the state of Kentucky may present such service for credit in the retirement system on the same basis as provided above for out-of-state service credit, however, no such service may be presented which shall be used as a basis for retirement benefits in any program supported wholly or in part by such public institution or governmental agency. Such service when added to service credited under subsection (2) (a) or (2) (b) of this section shall not exceed a total of eight years service credit.

(c) (d) A member having service referred to in subsection (2)(a) *or (2)(b)* of this section may elect to use such service, not in excess of *five* three years, for meeting the requirements of KRS 161.600*(1)(b)* (2) by making an additional contribution to the state accumulation fund equal to the regular member contributions for each year so used. The salary base to be used in determining this additional contribution shall be the *final* average annual salary which is used in calculating the member's regular retirement annuity.

Section 10. KRS 161.520 is amended to read as follows:

Upon death of an active contributing member or upon the death of a member retired for disability, *except as provided in KRS 161.661(6),* the survivors of the deceased member in the following named order, may elect to receive a survivor's benefit payable as follows:

(1) Where there is a surviving widow, or a widower, *who is named as beneficiary of the member's retirement account,* the benefit shall be one hundred sixty dollars per month, *except that effective July 1, 1976, the benefit shall be one hundred seventy-five dollars per month for an eligible widow or widower whose total income from all other sources does not exceed six thousand dollars per year or five hundred dollars per month.*

(2) Where there are surviving unmarried children under age eighteen or under age nineteen if a full-time student in high school, the benefit shall be one hundred *forty* thirty dollars per month in the case of one such child, two hundred *fifty* thirty-five dollars per month in the case of two such children, *three* two hundred ninety dollars per month in the case of three such children, and three hundred twenty-*five* dollars per month in the case of four or more such children. Benefits under this subsection shall apply notwithstanding benefits which may be payable under subsections (1) and (3).

(3) Where the survivor is a child age eighteen or older whose mental or physical condition is sufficient to cause his dependency on the deceased member at the time of the member's death the benefit shall be one hundred *seventy-five* sixty dollars per month, payable for the life of such child or until such time as the mental or physical condition creating the dependency no longer exists. Benefits under this subsection and subsection (2) shall apply to legally adopted survivors provided the proceedings for the adoption were initiated at least one year prior to the death of the member. Benefits under this subsection shall apply notwithstanding benefits which may be payable under subsections (1) and (2) and shall be in addition to such benefits.

(4) Where the sole eligible survivors are dependent parents aged sixty-five or over, the benefit shall be one hundred *seventy-five* sixty dollars per month for one parent or two hundred *forty* twenty dollars per month for two parents. Dependency of a parent shall be established as of the date of the death of the member.

(5) Where the sole eligible survivor is a dependent brother or sister, the benefit shall be one hundred *forty* thirty dollars per month. In order to qualify the brother or sister must have been a resident of the deceased member's household for at least one full year prior to the member's death or must have been receiving care in a hospital, nursing home or other institution at the member's expense for a like period.

(6) The benefit to a child as defined in subsection (2) of this section shall terminate upon the attainment of age eighteen or upon reaching age nineteen if a full-time student in high school or upon marriage, except that benefits shall continue until the attainment of age twenty-three for an unmarried child who is a full-time student in a recognized educational program beyond the high school level. The benefit to a widow, widower, dependent parent or dependent brother or sister or dependent child age eighteen or older shall terminate upon marriage, or upon termination of the condition creating the dependency. The benefit shall not be paid during the time the survivor, other than a child is receiving an annuity, pension or allowance in excess of three hundred dollars per month from a retirement or pension system in the state of Kentucky financed in whole or part by public contributions, excluding old age and survivors insurance.

(7) The board of trustees shall be the sole judge of eligibility or dependency of any beneficiary, and may require formal application or information relating thereto, including proof of annual income satisfactory to the board. The board of trustees may subpoena records and individuals whenever it deems such action necessary.

(8) No payments of benefits shall be made unless the board of trustees shall have authorized such payments. The board shall formulate and adopt necessary rules and regulations for the administration of the foregoing provisions and in every case the decision of the board of trustees shall be final as to eligibility, dependency, or disability, and the amounts of benefit payable.

(9) In the event that there are no eligible survivors as defined in subsections (1), (2), (3), (4), and (5) of this section, the board of trustees shall pay to the estate or assigns of the deceased member a refund of his accumulated contributions as provided in KRS 161.470(7). If the benefits paid or payable under subsections (1), (2), (3), (4), and (5) of this section and KRS 161.661 shall amount to a sum less than the member's accumulated contributions at the time of death, the board of trustees shall pay to the estate or assigns of the deceased member the balance of such accumulated contributions.

Section 11. KRS 161.525 is amended to read as follows:

(1) Upon death of a member in active contributing *status* service at the time of death, who was eligible to retire by reason of service, the spouse, *if named as beneficiary of the member's retirement account* or *in the absence of an eligible spouse* a legal dependent of said member, if named as beneficiary, shall be entitled to elect, in lieu of a refund of the member's account or benefits provided in subsection (1) of KRS 161.520, an annuity actuarially equivalent at the attained age of the beneficiary to the annuity that would have been paid to the deceased member had *retirement been effective* he been retired on the day immediately preceding *the member's* his death. In exercising this right the spouse or legal dependent shall be limited to selecting an option providing either a straight life *annuity* with refundable balance or ten years certain payment. *A* Nothing in this section shall prevent a spouse *may receive* from receiving the annuity provided herein at the same time as children are qualifying for survivors benefits under the provisions of KRS 161.520*, however, a legal dependent, other than a spouse may not receive such payments if children have qualified for benefits under that section.*

(2) A spouse or legal dependent qualifying for an annuity under subsection (1) of this section may defer such payments in order to reduce the actuarial discounts to be applied due to age.

Section 12. KRS 161.530 is amended to read as follows:

After a lapse of ten years from the date of termination of membership in the retirement system, if no previous request has been made for the return of the member's contribution, his accumulated contribution shall be transferred to the guarantee fund of the retirement system. If *a* such member, *whose account has been forfeited under previous provisions of this section,* shall return to teaching in a covered position in Kentucky, and reinstates the lost service credit as provided in KRS 161.470 (3), the funds transferred from the member's account shall be restored to such account and shall be credited against the payment required for reinstatement of service credit.

Section 13. KRS 161.550 is amended to read as follows:

Beginning with July 1, *1976* 1960 , the state shall contribute annually to the retirement system a permanent amount equal to that contributed by all members. The state shall, *in addition to the above amount,* contribute annually an amount sufficient to discharge the prior service *and other unfunded* obligation with interest assumed by the state, over a period not greater than thirty (30) years.

Section 14. KRS 161.580 is amended to read as follows:

The board of trustees shall provide for the maintenance of an individual account *for* with each member showing the amount of the member's contribution and interest accumulations. *Such individual accounts shall be identified in the records of the system by name, date of birth, and social security number.* It shall collect and keep in convenient form such data as is necessary for the preparation of the required mortality and service tables and for the compilation of such other information as is required for the actuarial valuation of the assets and liabilities of the various funds of the retirement system.

Section 15. KRS 161.600 is amended to read as follows:

(1) Effective July 1, 1976, a member of the retirement system may qualify for service retirement by meeting either of the following requirements:

(a) Attainment of age fifty-five years and completion of five years of Kentucky service, two years of which are subsequent to July 1, 1941, or

(b) Completion of thirty years of Kentucky service, two years of which are subsequent to July 1, 1941.

(c) Benefits will be reduced in accordance with KRS 161.620 for persons qualifying under (a) who are less than age sixty years, and under (b) if less than age fifty-five years.

(2) Any member shall be automatically retired as of July 1 next following the seventieth birthday, providing, however, that a member reaching age seventy and having fewer than five years of Kentucky service, two years of which are subsequent to July 1, 1941, shall receive a refund of the member's accumulated contributions as provided in KRS 161.470(6)in lieu of a retirement annuity.

(1) Any member who has attained the age of sixty years and who has completed five years of service as a teacher in Kentucky subsequent to July 1, 1941, may retire upon written application to the board of trustees of the teachers' retirement system. Any member shall be automatically retired as of July 1 following the end of the fiscal year in which he attains the age of seventy providing however that a person reaching age seventy and having fewer than five years of Kentucky service shall receive a refund of his accumulated contributions as provided in subsection (6) of KRS 161.470 in lieu of a retirement annuity.

(2) Any member of the retirement system with thirty years of creditable service in Kentucky may apply for and receive an annuity. At least five years of such service must be subsequent to July 1, 1941.

(3) Any person who has been a teacher in Kentucky for thirty years or more and who withdraws from teaching after July 1, 1941, and before reaching the age of sixty-five years may continue to pay into the fund each year, until the end of the fiscal year in which he reaches the age of sixty-five years, the *current contribution rate based on the annual compensation received* same amount that he was required to contribute during his last full year as a teacher. If he so elects he shall at any time be entitled to receive a retirement allowance as provided in KRS 161.620. No member shall make contributions as provided for above if such member is at the same time making contributions to another retirement system in Kentucky supported wholly or in part by public funds.

(4) Service credit in the Kentucky Employes Retirement System, the State Police Retirement System, the County Employes or the Judicial Retirement System may be used in meeting the service requirements of subsections (1)(a) and (1)(b) of this section, provided such service is subsequent to July 1, 1956.

(5) No retirement annuity shall be effective until written application and option election forms are filed with the retirement office in accordance with regulations of the board of trustees.

Section 16. KRS 161.603 is amended to read as follows:

Any teacher retired by reason of service and less than age seventy may waive his annuity and return to regular employment in a Kentucky public elementary or secondary school or state college or university covered by the system. Such teacher shall receive no annuity payments while so employed, but shall continue to be covered by the system's hospital and medical insurance program and his estate shall continue to be eligible for death benefits as provided in KRS 161.655. He shall be returned to the annuity rolls as of the first of the month next following the month in which the last teaching was performed. A teacher who waives his annuity and teaches for eight months or more during a school term shall be returned to the annuity rolls as of July 1 following the close of such school term. Such person shall not be considered a member of the retirement system, and no contributions shall be made for him. Service subsequent to retirement shall not be used to improve an annuity, *except as provided in subsection (2) below.*

(2) Any teacher who waives regular annuity benefits and returns to teaching for at least two consecutive regular school years shall be entitled to make contributions on the salaries received for such service and receive an increase in regular annuity equal to the percentage of salary on which additional contributions are made as provided in the regular retirement formula in KRS 161.620(1)(a) less any applicable actuarial discount applied to the original retirement allowance due to the election of a joint and last survivor option. Retirement option and beneficiary designation on original retirement shall not be altered by post-retirement employment nor shall dependents and spouses of such members become eligible for benefits under KRS 161.520 and 161.525 because of post-retirement employment.

Section 17. KRS 161.607 is amended to read as follows:

(1) Any member of the teachers' retirement system who enters employment covered by the Kentucky employes retirement system, the state police retirement system, or the county employes retirement system, *prior to July 1, 1976,* may retain membership in the teachers' retirement system instead of joining the new system. Any person who was a member of the teachers' retirement system at the time such employment began may elect to exercise this option now notwithstanding the fact that such exercise may not have been possible at the time of employment.

(2) Any member of the General Assembly who upon election is a contributing member of the Teachers' Retirement System may elect to retain membership in that system during the term of office, instead of participating in the Kentucky Employes Retirement System. No contributions may be made to the Teachers' Retirement System for the same period of service as may be covered by contributions to the Kentucky Employes Retirement System. Service as a member of the General Assembly may be used to meet the service requirments of KRS 61.680(2)(a) and 161.510 regardless of the system to which contributions are made by the member.

(3) (2) Any member of the teachers' retirement system entering employment as described in subsection (1) *or (2)* above after July 1, 1968, must exercise the option within *ninety* 180 days of the beginning of such employment.

(4) (3) Persons who enter service covered by the teachers' retirement system *prior to July 1, 1976,* and who hold membership in a Kentucky retirement system financed in whole or part with public funds may retain membership in that system providing the statutes and regulations governing said system make continued membership possible.

(5) Any person who has elected an option provided in the above subsections may cancel such election and gain membership in the system which normally covers the position in which currently employed, provided that such cancellation of option election must be completed prior to January 1, 1977.

Section 18. KRS 161.620 is amended to read as follows:

(1) The retirement allowance, in the form of a life annuity with refundable balance, of a member retiring for service whose age at retirement is fifty-five years or more shall be calculated as follows:

(a) For retirements effective during the 1976-77 fiscal year the annual allowance shall be sixty-four dollars times the number of years service credit prior to July 1, 1941, plus two percent of the final average salary times the number of years service credit after July 1, 1941. Actuarial discounts due to age at retirement may be applied as provided in subsections (1)(c) and (1)(d) of this section.

(b) For retirements effective July 1, 1977, and thereafter the annual allowance shall be determined as set out in subsection (1)(a) of this section, except that the allowance for service prior to July 1, 1941, shall be eighty-eight dollars per year.

(c) If the member has thirty years or more of Kentucky service, including credit for military service and is less than fifty-five years of age, the allowance shall be reduced by three percent for each year the member is less than fifty-five.

(d) If the member has five years or more of Kentucky service, but less than thirty years of such service credit, the allowance shall be reduced actuarially for the number of years the member is less than sixty years of age or by the number of years the service credit is less than thirty years, whichever is the lesser number. The board of trustees shall adopt an actuarial table of discounts for the purpose of calculating these allowances.

(1) The retirement allowance of a member retiring for service July 1, 1974, or thereafter whose age at retirement is fifty-five years or more shall be the sum of:

(a) The prior service years multiplied by forty dollars and

(b) Two percent of the annual salary in Kentucky multiplied by the number of years of service credit after July 1, 1941. The retirement allowance of a member whose age at retirement is less than fifty-five shall be reduced at the rate of three percent for each year that the member is less than fifty five. Actuarial factors in use by the retirement system for all purposes shall be determined by the actuary of the retirement system and approved by the board of trustees.

(2) Effective July 1, 1970, and annually on July 1 thereafter the annual retirement allowance of each retired teacher shall be increased in the amount of one percent of the retirement allowance in effect on July 1, 1970, or the date of retirement, whichever occurs later.

(3) Any member qualifying for retirement under a *life annuity with refundable balance* straight life annuity shall be entitled to receive an annual allowance amounting to not less than sixty dollars multiplied by the service credit years of the teacher, except that no retired teacher *who was sixty years of age or older at retirement, and who has five years or more service credit in a position covered by the teachers' retirement system* shall receive a monthly benefit of less than fifty-five dollars. The above minimums shall be effective July 1, *1974* 1972 , and shall apply to those members already retired on that date as well as to those retiring *on or* subsequent to that date.

(4) The minimum provided in this section shall apply in the case of teachers retired or retiring under an option other than a *life annuity with refundable balance* straight life annuity in the same proportion to the benefits of the teacher and his beneficiary or beneficiaries as provided in the duly adopted option tables at the time of the member's retirement.

(5) Effective July 1, 1976, the monthly retirement allowance of each member retired on or before January 1, 1976, and of each recipient of a retirement option of such retired member shall be increased in the amount of three percent of the monthly allowance for each year from the effective date of retirement or July 1, 1971, whichever is the later date, to July 1, 1976. Fractional years shall be calculated on a pro rata basis. The above percentages shall be based on an assumed minimum allowance of two hundred dollars per month and an assumed maximum of five hundred dollars per month of annuity in effect the previous month.

(5) For each year of the 1974-76 biennium, the board of trustees may make a special benefit payment to persons retired for service or disability, and to beneficiaries of retirement options. Such payments shall average 5% of the annual benefit. The board of trustees shall provide by regulation for the distribution of such additional amounts as may be appropriated for this purpose. In adopting said regulation, the board of trustees may set minimum and maximum lump-sum payments, and may give consideration to the retirement dates of the respective recipients. To be eligible for either payment the retirement date of the annuitant must be at least one year prior to the beginning of the fiscal year during which the payment is to be made.

(6) Effective July 1, 1976, each member who retired prior to that date and each recipient of a retirement option of such member shall receive an increase in monthly benefits equal to two dollars for each year of credited service prior to July 1, 1941. Each member who retired prior to July 1, 1977, and each recipient of a retirement option of such member shall receive an increase of two dollars per month for each year of credited service prior to July 1, 1941, to be effective July 1, 1977. No more than fifteen years of service prior to July 1, 1941, shall be used in calculating these increases for each member.

Section 19. KRS 161.630 is amended to read as follows:

A member, upon The beneficiary of a retirement allowance shall receive *a* retirement allowance s in the form of a life annuity, *with refundable balance,* as provided in KRS 161.620, unless *an election is made* he elects, before the *effective date of retirement* first payment of a retirement allowance is made , to receive *actuarially* equivalent benefits under such options as the board of trustees approves. No option shall provide for a benefit with an actuarial value at the age of retirement greater than that provided in KRS 161.620. This section does not apply to disability allowances *as provided in KRS 161.661(1) under which the benefit is fifty percent of last earned annual compensation without regard to years of service and final average salary.*

Section 20. KRS 161.650 is amended to read as follows:

In the case of death of a member who has retired by reason of service or disability, any portion of the member's accumulated contributions, including *member contributions to the state accumulation fund and* regular interest to the date of retirement, that has not, and will not be paid as an allowance or benefit shall be paid to the member's beneficiary in such manner as the board of trustees elects.

Section 21. KRS 161.661 is amended to read as follows:

(1) Any *member* person who has completed *five* eight or more years of accredited service in the public schools of Kentucky after July 1, 1941, may retire for disability and be granted a disability allowance if found to be eligible as provided below. Application for disability benefits must be made within one year of the last contributing service in Kentucky, and the disability must have occurred during the most recent period of

employment in a position covered by the teachers' retirement system and subsequent to the completion of *five* eight years of teaching service in Kentucky. A disability occurring during the regular vacation immediately following the last period of active service in Kentucky or during an official leave for which the member is entitled to make regular contributions to the retirement system, shall be considered as having occurred during a period of active service. The annual disability allowance shall be equal to one-half of the last earned annual compensation, *except that a member retiring for disability who is also eligible for service retirement may elect to have the benefit calculated on the service retirement formula and may choose any of the retirement options provided for service retirement.*

(2) No member who has reached the age of sixty years and who is otherwise qualified for retirement may retire by reason of disability, *with the disability allowance of one-half of the last earned annual compensation as set out in subsection (1) above. A member who is sixty years of age or older may retire for disability with the benefit calculated on the service retirement formula and the choice of retirement options as provided for service retirement. Provisions of KRS 161.520, 161.525, and subsections (3), (4), (5) of this section shall not apply to disability retirees whose benefits were calculated on the service retirement formula nor to survivors of such members.*

(3) Members shall earn one year of entitlement to disability retirement, *at one-half of last earned annual compensation,* for each four years of service in a covered position but any member meeting the service requirement for disability retirement shall be credited with no less than five years of such eligibility.

(4) A member retired by reason of disability shall continue to earn service credit at the rate of one year for each year so retired. Such service shall be credited to the member's account at the expiration of entitlement as defined in subsection (3) of this section, *or when the member's eligibility for disability benefits is terminated upon recommendation of the medical review board,* and shall be used in calculating benefits as provided in subsection (5) of this section.

(5) Any member retired by reason of disability and remaining disabled at the expiration of the eligibility period shall *have such disability benefits recalculated using the service retirement formula with service credit as set out in subsection (4) above* be entitled to retire for service . The retirement allowance shall be calculated as set forth in KRS 161.620 except that those persons less than sixty years of age shall be considered as sixty.

(6) Members who have their disability retirement allowance recalculated at the expiration of the entitlement period shall continue to have coverage under the post retirement medical insurance program. Restrictions on employment shall remain in effect until the member attains age seventy or until the member's eligibility is discontinued. KRS 161.520 and 161.525 shall not apply to survivors of disability retirees whose retirement allowances have been recalculated at the expiration of the entitlement period.

(7) (6) Any member retired by reason of disability *may voluntarily waive disability benefits and return to teaching or such member,* who is age sixty years or older, may elect to waive disability benefits and retire for service on the basis of service credited to the member on the effective date of the disability retirement.

(8) (7) In order to qualify for retirement by reason of disability a teacher must suffer from a physical or mental condition presumed to be permanent in duration and of such a nature as to render him incapable of being gainfully employed as a teacher. Such incapability must be revealed by a competent examination by a licensed physician or physicians and must be approved by a majority of the medical review board.

(9) (8) A member retired by reason of disability shall be required to undergo periodic examinations at the discretion of the board of trustees to determine whether the disability allowance shall be continued. When examination and recommendation of the medical review board indicate the disability no longer exists, the allowance shall be discontinued.

(10) (9) No payment of a disability benefit shall be made until ninety days after *the first day of the month in which* the application for disability retirement *was* has been filed, *or the first of the month next following the last payment of salary or sick leave benefits by the employer, whichever is the later date.*

(11) (10) No person who receives a disability allowance may serve as a teacher either within or without the state of Kentucky. So doing shall constitute a misdemeanor; and shall result in loss of such allowance from the first date of such service. The recipient of a disability allowance who engages in any gainful occupation other than teaching must make a report of the duties involved, compensation received and any other pertinent information required by the board of trustees. If the annual income from other employment plus the disability benefit exceed the sum of nine thousand dollars or the last earned compensation, whichever is the greater amount, the benefit shall be reduced to an amount which with earned income will not exceed the last earned compensation or nine thousand dollars, whichever is the greater amount. In no case shall the benefit be reduced to less than fifty-five dollars per month, *if the member has five or more years of contributing service in the teachers' retirement system.*

(12) (11) The board of trustees shall designate a medical review board consisting of three *or more* licensed physicians and may designate physicians in various areas of the commonwealth to conduct examinations as needed. The medical review board shall pass upon all applications for disability retirement and

upon all statements, certifications, and examinations submitted in connection with such applications. The disposition of each case shall be recommended by the medical review board in writing to the board of trustees. Members of the medical review board shall follow such rules and regulations regarding procedures as the board of trustees may enact and shall be paid reasonable fees and expenses as authorized by the board of trustees in compliance with the provisions of KRS 161.330 and 161.340. The board of trustees may secure such additional medical service and information as it deems necessary.

(13) (12) A disability may be presumed to be permanent if the condition creating such disability may be reasonably expected to continue for one year or more from the date of application for disability benefits.

(14) Any member who has voluntarily waived disability benefits or whose disability benefits have been discontinued on recommendation of the medical review board, may apply for reinstatement of disability benefits. The application for reinstatement must be made to the retirement system within twelve months of the date disability benefits terminated. If the termination of benefits were voluntary the reinstatement may be made without medical examination if application is made within three months of the termination date. Other applications for reinstatement will be processed in the same manner as new applications for benefits.

Section 22. KRS 161.675 is amended to read as follows:

(1) The board of trustees is empowered to enter into contracts with insurance carriers for the purpose of providing a broad program of hospital and medical insurance coverage to teachers retired for service who are age *fifty-five (55)* sixty (60) or older to teachers retired by reason of disability, *and* to the spouses and minor children of said retired teachers. *Coverage may also be extended* , to spouses receiving monthly benefits under the provisions of KRS 161.525, and to minor children of teachers *in active contributing status* who are deceased prior to retirement if such teachers *were* was *fifty-five* sixty years of age or older *and eligible for service retirement* at the time of death.

(2) The coverage provided shall be as set forth in the contracts and the regulations of the board of trustees. The contracts and regulations shall provide for, but not be limited to, hospital room and board, surgical procedures, doctors' care in the hospital and miscellaneous hospital costs. *A retiree whose effective date of retirement is July 1, 1974, and thereafter, must have a minimum of five years creditable Kentucky service in the teachers' retirement system to qualify for such coverage.*

(3) The board of trustees is empowered to pay premiums for insurance coverage from the hospital and medical insurance fund. It may provide such insurance coverage as is deemed desirable by making payment to institutions and individuals for services performed, or the board of trustees may elect to provide such insurance protection on a "self-insurance" basis.

(4) Contracts negotiated may include the provision that a stated amount of hospital cost or period of hospitalization shall incur no obligation on the part of the insurance carrier or the retirement system.

(5) The board of trustees is empowered to adopt such rules and regulations as are necessary to assure efficient operation of the hospital and medical insurance program.

(6) The board of trustees may extend coverage to members retiring for service at age 55 or older when it is determined that sufficient funds are available for this purpose.

Section 23. Sections 161.505 and 161.715 of the Kentucky Revised Statutes are repealed.

Section 24. This Act shall become effective July 1, 1976.

The Committee Amendment to **HB 732** is as follows:

Amend printed copy of **HB 732**, page 2, line 9, by changing the word "lind" to "blind"; and on line 14 by deleting the word "and"; and on line 19 by deleting the period and substituting in lieu thereof a semi-colon; and inserting the word "*and*" thereafter;

and on page 8, line 23, by deleting the period following the word "duties" and by adding thereafter the following: "*in the event such counsel and services are not provided by the Attorney General.*"

and on page 17, line 26, by deleting the words, "not in excess of *five* three years," and by bracketing the words "not in excess of three years,"

and on page 18, following line 7, insert the following: "*(3) Members entering the teachers' retirement system for the first time, July 1, 1976, and thereafter, shall not receive credit for service defined in subsections (2)(a) and (2)(c) above in excess of one year of credit for each two years of Kentucky service in a covered position or eight years, whichever is the lesser number.*"

and on page 24, line 1, by changing "obligation" to "obligation*s*".

and on page 27, line 3, by adding "*(1)*" at the beginning of the line.

and on page 31, line 26, after the word "teacher" insert the following: "*and of each beneficiary of a retirement option*".

and on page 32, line 24, by changing "January" to "June".

The Committee on Education reported **HB 4,** with Committee Substitute and Committee Amendments attached thereto, with the expression of opinion that the same should pass. Ordered referred to the Committee on Rules.

The Committee Substitute No. 1 for **HB 4** is as follows:

HB 4, AN ACT relating to the funding of the public schools.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 157 IS CREATED TO READ AS FOLLOWS:
It is the intention of the General Assembly in adopting this Act to encourage local supplement of the funds distributed from the public common school foundation program fund by providing districts with substantially equal power to generate funds for this purpose through a program of district power equalization.

SECTION 2. A NEW SECTION OF KRS CHAPTER 157 IS CREATED TO READ AS FOLLOWS:
(1) There is hereby established a public common school district power equalization program fund consisting of appropriations for distribution to districts in accordance with the provisions of this Act.
(2) The resources of the public common school district power equalization program fund shall be paid into the state treasury, and shall be drawn out or appropriated only in aid of public schools as provided by statute.

SECTION 3. A NEW SECTION OF KRS CHAPTER 157 IS CREATED TO READ AS FOLLOWS:
On or before January 1 of each year, the Department of Revenue shall determine the equalized fair cash value, as of the previous January 1, of all property subject to taxation for school purposes in each district, and shall certify such information to the superintendent of public instruction for use in determining the amount of state power equalization support for each district.

SECTION 4. A NEW SECTION OF KRS CHAPTER 157 IS CREATED TO READ AS FOLLOWS:
(1) The superintendent of public instruction shall calculate the amount of state power equalization support for each district in the following manner:
(a) Determine the equalized fair cash value of property per pupil in each district by dividing the district's equalized fair cash value of property by its average daily attendance.
(b) Determine the current maximum local discretionary revenue yield per pupil in each district by multiplying the district's equalized fair cash value of property per pupil by the district's total school tax rate, less that rate of local tax effort required for participation in the foundation program, and less any special voted building fund tax rate and any sinking fund tax rate. The net rate used in this calculation shall not exceed the supported rate as provided for in Section 5 of this Act.
(c) Determine the guaranteed local discretionary revenue yield per pupil in each district by multiplying the equalized fair cash value of property per pupil of the county district with the highest equalized fair cash value of property per pupil in the state by each district's total school tax rate, less that rate of local tax effort required for participation in the foundation program, and less any special voted building fund tax rate and any sinking fund tax rate. The net rate used in this calculation shall not exceed the supported rate as provided for in Section 5 of this Act.
(d) Multiply the difference between each district's current maximum local discretionary revenue yield per pupil (as determined in subparagraph (b) of this section) and its guaranteed local discretionary revenue yield per pupil (as determined in subparagraph (c) of this section) by its average daily attendance. The result shall be the amount of state power equalization support for each district.
(2) Equalized fair cash value of property, school tax rates, and average daily attendance as used in this section shall be the prior year's equalized fair cash value of property, school tax rates and average daily

attendance, provided that where a district has increased its rate as provided in Section 6 of this Act the current year rates shall be used.

SECTION 5. A NEW SECTION OF KRS CHAPTER 157 IS CREATED TO READ AS FOLLOWS:

(1) Prior to July 1 of each fiscal year the superintendent of public instruction shall determine the maximum tax rate which the available fund will support, and the superintendent will fix that rate as the maximum rate to be supported by the district power equalization program. The rate to be supported by the district power equalization program shall always be an identical rate for all districts.

SECTION 6. A NEW SECTION OF KRS CHAPTER 157 IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding any statutory provisions to the contrary, the board of education of any district in any year in which the total school tax rate, less the rate required by KRS 157.380 for local effort, and less any special voted building fund tax rate and any sinking fund tax rate, is less than the maximum rate supported by the district power equalization program as provided for in Sections 4 and 5 of this Act, may request the local tax levying authority to increase the rate in any amount not to exceed the maximum rate supported by the district power equalization program after compliance with the following:

(a) The district board of education shall give notice of the proposed request for a rate increase. Notwithstanding any statutory provisions to the contrary, notice shall be given by causing to be published at least one (1) time in a newspaper of general circulation in the district, or in any other good faith manner if there is no such newspaper, the fact that such request is being proposed. Such advertisement shall state that the district board of education will meet at a place and on a date fixed in the advertisement, not earlier than one (1) week and not later than two (2) weeks from the date of the advertisement, for the purpose of hearing comments and complaints regarding the proposed increase and explaining the reasons for such proposal.

(b) The district board of education shall conduct a public hearing at the place and on the date advertised for the purpose of hearing comments and complaints regarding the proposed tax rate increase and explaining the reasons for the proposal.

(2) The local tax levying authority shall levy the rate requested by the district board of education subject to the limitations imposed by this Act. All rate increases levied as a result of the provisions of this Act shall be effective July 1 following the action by the tax levying authority. The rate shall be levied from year to year until the district board of education requests a change in the rate. If the change requested is a reduction in the rate, the tax levying authority shall reduce the rate, and the advertisement and public hearing requirements of this Act shall not apply.

SECTION 7. A NEW SECTION OF KRS CHAPTER 157 IS CREATED TO READ AS FOLLOWS:

For each school year the Executive Department for Finance and Administration, on the certification of the superintendent of public instruction, shall draw warrants as specified hereinafter on the state treasurer for the amount of the state power equalization support due each district. Checks shall be issued by the state treasurer and transmitted to the Department of Education for distribution to the proper officials of the several districts when the districts have fully complied with the school laws and rules and regulations of the state board of education. The superintendent of public instruction shall determine on or before April 1 of each year the tentative allotment of school funds to which each district is entitled under the provisions of this Act. Beginning August 1 of each year and on the first of each month thereafter for seven (7) successive months, one-twelfth (1/12) of each district's share of the state power equalization support shall be distributed. On or before March 1 of each year, the superintendent of public instruction shall determine the exact amount of the state power equalization support to which each district is entitled and the remainder of the amount due each district for the year shall be distributed in four (4) equal installments beginning March 15 and for three (3) successive months thereafter.

SECTION 8. A NEW SECTION OF KRS CHAPTER 157 IS CREATED TO READ AS FOLLOWS:

(1) No district shall be eligible for the state power equalization support provided for in this Act during any fiscal year in which the district board of education specifies in its budget for that fiscal year a total school tax rate, less that rate of local tax effort required for participation in the foundation program, and less any special voted building fund tax rate and any sinking fund tax rate, which would produce less revenue than was produced by the application of that district's total school tax rate for fiscal year 1975-76, less that rate of local tax effort required for participation in the foundation program, and less any special voted building fund tax rate and any sinking fund tax rate for fiscal year 1975-76, to that district's 1975 assessment specified under KRS 160.460(3).

(2) The superintendent of public instruction shall not certify to the Executive Department for Finance and Administration for payment of the state power equalization support for any fiscal year a school district which has become ineligible for such support as provided in subsection (1) above.

(3) Any district receiving a tentative allotment under Section 7 of this Act which does not meet the requirement of subsection (1) above shall return all funds received to the district equalization program fund.

SECTION 9. KRS 157.310 IS CREATED TO READ AS FOLLOWS:

In KRS 157.310 to 157.440 and subsection (2) of KRS 157.990, it is the intention of the general assembly to assure substantially equal public school educational opportunities, through a foundation program, for those in attendance in the public schools of the commonwealth, but not to limit nor to prevent any school district from providing educational services and facilities beyond those assured by the foundation program; and to provide, as additional state funds are made available for the public schools, for the use of such funds for the further equalization of educational opportunities. KRS 157.310 to 157.440 and subsection (2) of KRS 157.990, shall be interpreted as a measure to provide for an efficient system of public schools throughout the commonwealth, as prescribed by section 183 of the constitution of Kentucky, and for the manner of distribution of the public school fund among the districts and its use for public school purposes, as prescribed by section 186 of the constitution.

SECTION 10. KRS 157.312 IS CREATED TO READ AS FOLLOWS:

It is the intention of the general assembly in KRS 157.312 to 157.320, 157.360 and 158.030 to authorize a local board of education to operate a public kindergarten in the common schools during 1973-74 and subsequent years.

SECTION 11. KRS 157.315 IS CREATED TO READ AS FOLLOWS:

Upon the recommendation of the Superintendent of Public Instruction, the State Board of Education shall adopt regulations defining and prescribing the criteria for kindergartens in the common schools and the eligibility requirements of pupils to attend these classes.

SECTION 12. KRS 157.320 IS CREATED TO READ AS FOLLOWS:

As used in KRS 157.310 to 157.440, unless the context otherwise requires:

(1) "Average daily attendance" means the aggregate days attended by pupils in a public school, divided by the actual number of days the school is in session for the year;

(2) "Average daily membership" means the aggregate days of membership of pupils in a public school divided by the actual number of days the school is in session for the year;

(3) "Board" means the board of education of any county or independent school district;

(4) "Classroom unit" means the unit for measuring educational needs for foundation program purposes;

(5) "District" means any school district as defined by law;

(6) "Elementary school" means a school consisting of grades kindergarten through eight, or any appropriate combination of grades within this range, as determined by the plan of organization for schools authorized by the district board;

(7) "Foundation program" means the level of educational services and facilities, as defined in KRS 157.310 to 157.440, which is to be provided in each district from the required local tax effort and the public school foundation program fund;

(8) "Isolated school" means an elementary or secondary school which had fewer than one hundred pupils in average daily attendance during the previous school year and which meets such standards for isolation as shall be prescribed by the regulations of the state board of education, based on factors to include distance by the nearest passable road from another appropriate school center which is able to receive the pupils, and the time for transportation necessary to attend another school;

(9) "Public school foundation program fund" means the fund created by KRS 157.330 for use in financing education in public elementary and secondary schools;

(10) "Kentucky administrative regulations of the state board of education" means those regulations which the state board of education may adopt upon the recommendation and with the advice of the superintendent of public instruction. The superintendent of public instruction shall recommend for adoption of the state board of education such rules and regulations as he deems necessary for carrying out the purposes of KRS 157.310 to 157.440;

(11) "Required local tax effort" means the amount of money required to be provided by a district from tax revenue sources only;

(12) "Secondary school" means a school consisting of grades seven through twelve, or any appropriate combination of grades within this range as determined by the plan of organization for schools authorized by the district board. When grades seven through nine or ten are organized separately as a junior high school, or grades ten through twelve are organized separately as a senior high school and are conducted in separate school plant facilities, each shall be considered a separate secondary school for the purposes of KRS 157.310 to 157.440;

(13) "Single salary schedule" means a schedule adopted by a local board and approved by the state board of education upon recommendation of the superintendent of public instruction which is based on training, experience and such other factors as the state board of education may approve and which does not discriminate between salaries paid elementary and secondary teachers;

(14) "Teacher" means any regular or special teacher, principal, supervisor, superintendent, assistant superintendent, librarian, director of pupil personnel, or other member of the teaching or professional staff engaged in the service of the public elementary and secondary school for whom certification is required as a condition of employment.

SECTION 13. KRS 157.330 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby established the public school foundation program fund consisting of appropriations for distribution to districts in accordance with the provisions of KRS 157.310 to 157.440.

(2) The resources of the public school foundation program fund shall be paid into the state treasury, and shall be drawn out or appropriated only in aid of public schools as provided by statute.

SECTION 14. KRS 157.350 IS CREATED TO READ AS FOLLOWS:

Each district which meets the following requirements shall be eligible to share in the distribution of funds from the public school foundation program funds:

(1) Employs and compensates all teachers for not less than 185 days, Provided, That the state board of education, upon recommendation of the superintendent of public instruction, shall prescribe procedures whereby this requirement may be reduced during any year for any district which employs teachers for less than 185 days, in which case the eligibility of a district for participation in the public school foundation program shall be in proportion to the length of time teachers actually are employed;

(2) Operates all schools for a term as provided in KRS 158.070 and Kentucky administrative regulations of the state board of education, Provided, however, That if the school term is less than 185 days for any reason approved by the state board of education on recommendation of the superintendent of public instruction the eligibility of a district for participation in the public school foundation program fund shall be in proportion to the length of term the schools actually operate;

(3) Compensates all teachers on the basis of a single salary schedule and in conformity with the provisions of KRS 157.310 to 157.440;

(4) Makes the required local tax effort except as otherwise provided by subsection (3) of KRS 157.400;

(5) Includes no nonresident pupils in its average daily attendance, except by written agreement with the district of the pupils' legal residence. This subsection does not apply to those pupils enrolled in an approved class conducted in a hospital;

(6) Any secondary school which maintains a basketball team for boys for other than intramural purposes, shall maintain the same for girls;

(7) Any school district which fails to comply with subsection (6) shall be prohibited from participating in varsity competition in any sport for one (1) year. Determination of failure to comply shall be made by the department of education after a hearing requested by any person within the school district. A district under this subsection shall, at such hearing, have an opportunity to show inability to comply.

SECTION 15. KRS 157.360 IS CREATED TO READ AS FOLLOWS:

(1) In determining the cost of the foundation program for each district, the superintendent of public instruction shall allot to each district classroom units for elementary and secondary schools, classroom units for vocational education, classroom units for exceptional children, classroom units for superintendents, principals and their certificated assistants and other administrative and special instructional service personnel, classroom units for supervisors of instruction, and classroom units for directors of pupil personnel; provided, however, that the number of classroom units allotted any district shall not exceed the number of teachers employed by the district.

(2) In allotting classroom units for elementary and secondary schools, one classroom unit shall be included for each twenty-seven pupils in average daily attendance in grades 1 through 12; provided, however, that one classroom unit shall be included for each isolated one-teacher school and one unit shall be included for each twenty-five pupils in average daily attendance at all other isolated schools.

(3) Under the provisions of subsections (5) and (6) of this section, the average daily attendance, as defined in KRS 157.320(1), shall be deducted for pupils enrolled in new classroom units allotted after July 1, 1974; provided, however, no deduction shall be made for pupils attending state vocational-technical schools or state-operated vocational education centers. For the purpose of this subsection, a new classroom unit shall be defined as any additional vocational or exceptional children unit contained in the biennial budget above the allotment from the biennial budget for 1973-74. Any average daily attendance deducted under this subsection shall be in accordance with Kentucky administrative regulations of the state board of education as recommended by the superintendent of public instruction.

(4) Allotments of classroom units in accordance with subsection (1) of this section shall be made on the average daily attendance in grades 1 through 12 for the previous school year; provided, however, that if the average daily attendance in grades 1 through 12 in any district for the first two months of the current school year is greater than the average daily attendance of the district for the first two months of the previous school year, upon application of the district board, made prior to December 1, the total number of classroom units allotted the district shall be increased by the percent of increase. If the average daily attendance of any district shall have been reduced more than three percent during the previous school year due to such factors as epidemics, inclement weather, or disaster, upon application of the district superintendent, made before July 1 of that year, the number of classroom units allotted the district for the ensuing school year shall be increased by the difference in percent between the ratio of the average daily attendance to the average daily membership for the scholastic year just ended, and the ratio of the average daily attendance to the average daily membership for the two highest of the three preceding scholastic years.

(5) In allotting classroom units for vocational education, one classroom unit shall be allotted for each full-time teacher, and a proportionate fraction of a classroom unit shall be allotted for each less than full-time teacher of vocational classes that meet the regulations of the state plan of vocational education as approved by the state board of education; a proportionate fraction of a classroom unit shall be allotted for each teacher employed to teach part-time or short unit classes for less than a school day or a school year that meet the regulations of the state plan of vocational education as approved by the state board of education. The classroom units allotted under this subsection shall not exceed the units provided in the biennial budget without approval of the governor.

(6) In allotting classroom units for exceptional children, one classroom unit shall be included upon the employment of each teacher approved to teach such children in accordance with the provisions of law and Kentucky administrative regulations of the state board of education. The classroom units allotted under this subsection shall not exceed the units provided in the biennial budget without approval of the governor.

(7) In allotting classroom units for superintendents, principals, their certificated assistants, and other administrative and special instructional service personnel, the total number of classroom units allotted in subsections (2), (5), (6) and (10) shall be divided by eight and the quotient shall be the number of classroom units allotted to the district for superintendents, principals, their certificated assistants and other administrative and special instructional service personnel as are authorized by Kentucky administrative regulations of the state board of education. Provided, however, that in allotting classroom units for superintendents, principals, their certificated assistants, and other administrative and special instructional service personnel, the total number of pupils in average daily attendance for classroom units allotted in subsections (5) and (6) after the school year 1975-76 shall be divided by two hundred sixteen (216) and the quotient shall be the number of classroom units allotted to the district for superintendents, principals, their certificated assistants, and other administrative and special instructional service personnel pursuant to subsections (5) and (6).

(8) In allotting classroom units for supervisors of instruction, one-half of a classroom unit shall be allotted each district which is allotted twenty-five through forty-nine and nine-tenths classroom units under subsections (2), (5), (6) and (10); one unit shall be allotted each district which is allotted fifty to one hundred classroom units, one unit shall be allotted for each one hundred classroom units, or major fraction thereof, in districts allotted more than one hundred classroom units under these subsections.

(9) In allotting classroom units for directors of pupil personnel, one classroom unit shall be allotted each district which is allotted thirty-six to one hundred and sixty-five and nine-tenths classroom units under subsection (2) and a unit for each additional two hundred and sixty-six classroom units or fraction thereof allotted under subsection (2). For districts having fewer than thirty-six classroom units, a proportionate fraction of a classroom unit shall be allotted.

(10) In allotting classroom units for kindergarten, the superintendent of public instruction, under Kentucky administrative regulations of the state board of education, may allot units for kindergarten. The classroom units allotted under this subsection shall not exceed the units provided in the biennial budget without approval of the governor.

(11) In allotting classroom units under subsections (1) through (10) the superintendent of public instruction, under Kentucky administrative regulations of the state board of education, may allot units on the basis of an area larger than a district for educational services which cannot be adequately and economically provided on a district basis.

SECTION 16. KRS 157.370 IS CREATED TO READ AS FOLLOWS:

(1) In determining the cost of the foundation program for each district, the superintendent of public instruction shall determine the average cost per pupil per day of transporting pupils in districts having a similar density of transported pupils per square mile of area served by not less than nine different density groups.

(2) The annual cost of transportation shall include all current costs for each district plus annual depreciation of pupil transportation vehicles calculated in accordance with the Kentucky administrative regulations of the state board of education for such districts that operate district-owned vehicles.

(3) The aggregate and average daily attendance of transported pupils shall include all public school pupils transported at public expense who live one mile or more from school, provided that handicapped children may be included who live less than this distance from school. The aggregate and average daily attendance referred to in this subsection shall be the aggregate and average daily attendance of transported pupils the prior year adjusted for current year increases in accordance with state board of education regulations.

(4) The square miles of area served by transportation shall be determined by subtracting from the total area in square miles of the district the area not served by transportation, determined in accordance with the Kentucky administrative regulations of the state board of education provided that if one district authorizes another district to provide transportation for a part of its area, such area served shall be deducted from the area served by that district and added to the area served by the district providing the transportation.

(5) The density of transported pupils per square mile of area served for each district shall be determined by dividing the average daily attendance of transported pupils by the number of square miles of area served by transportation.

(6) The superintendent of public instruction shall determine the average cost per pupil per day of transporting pupils in districts having a similar density by constructing a smoothed graph of cost for all density groups as provided in subsection (1). This graph shall be used to construct a scale showing the average costs of transportation for districts having a similar density of transported pupils. Such costs shall be determined separately for county school districts and independent school districts, provided that no independent school district will receive an average cost per pupil per day in excess of the minimum received by any county district or districts. These costs shall be the costs per pupil per day of transported pupils included in the foundation program and such costs shall be recalculated each biennium.

(7) The scale of transportation costs included in the foundation program for county and independent districts is determined in accordance with the provisions of KRS 157.310 to 157.440 for the biennium beginning July 1, 1960.

(8) The cost of transporting a district's pupils from the parent school to a state vocational-technical school or to a vocational educational center shall be calculated separately from the calculation required by sections (1) through (7) of this section. The amount calculated shall be paid separately to each district from minimum foundation program funds budgeted for vocational pupil transportation, as a reimbursement based on the district's cost for providing this service. The amount of reimbursement shall be calculated in accordance with state board of education regulations. In the event that the appropriation for vocational pupil transportation in the biennial budget is insufficient to meet the total calculated cost of this service for all districts, the amount paid to each district shall be ratably reduced. For the purpose of this subsection, the parent school shall be interpreted to mean that school in which the pupil is officially enrolled in a district's public common school system.

(9) The state board of education, by Kentucky administrative regulation, shall determine the type of handicapped pupil that qualifies for special type transportation to and from school. Those qualified pupils for which the district provides special type transportation shall have their aggregate days attendance multiplied by 5.0 and added to that part of the district's aggregate days attendance that is multiplied by the district's adjusted cost per pupil per day in determining the district's pupil transportation program cost for allotment purposes.

SECTION 17. KRS 157.380 IS CREATED TO READ AS FOLLOWS:

(1) On or before January 1 of each year the department of revenue shall determine the fair cash value of all property subject to assessment for school purposes, including a separate listing of the part of such assessment represented by "net assessment growth" as defined in KRS 132.425, and shall determine the percentage the fair cash value in each district is of the total equalized value of all property in the commonwealth subject to taxation for school purposes and shall certify such information to the superintendent of public instruction for use in determining the required local tax effort for each district for the fiscal year beginning on July 1, next after such certification.

(2) The superintendent of public instruction shall for the 1968-69 fiscal year use the aggregate required local tax effort and the required local tax effort for the respective school districts which were determined for use during the 1967-68 fiscal year. For each fiscal year subsequent to 1968-69, the aggregate required local tax effort for the commonwealth shall be the sum of the aggregate required local tax effort for the preceding year plus the amount obtained by multiplying the percentage of net assessment growth, as defined in KRS 132.425, by the aggregate local required tax effort for the preceding year; and the required local tax effort for each district shall be obtained by multiplying each district's percentage of the total equalized value of all property in the commonwealth subject to school taxation for school purposes by the aggregate required local tax effort of the commonwealth.

(3) Any district's levy shall be at such rate as is necessary to provide the required local tax effort.

SECTION 18. KRS 157.390 IS CREATED TO READ AS FOLLOWS:

(1) (a) The Superintendent of Public Instruction, under Kentucky administrative regulations of the State Board of Education, shall classify teachers in rank as follows:

Rank I. Those holding regular certificates and who have a master's degree or its equivalent and who have earned thirty semester hours of approved graduate work or its equivalent, and those teachers who, as of September 1, 1962, were included in Rank I, having earned twenty-four semester hours of additional approved graduate work.

Rank II. Those holding regular certificates and who have a master's degree or its equivalent.

Rank III. Those holding regular certificates and who have an approved four-year college degree or the equivalent.

Rank IV. Those holding certificates and who have ninety-six to 128 semester hours of approved college training or the equivalent; provided, however, that persons holding emergency certificates shall not be classified higher than this rank for calculation of the amount to be included in the foundation program.

Rank V. Those holding certificates and who have sixty-four to ninety-five semester hours of approved college training or the equivalent.

(b) In determining ranks, the Superintendent of Public Instruction, under Kentucky administrative regulations of the State Board of Education, shall classify teachers who hold valid certificates in the respective ranks according to approved college semester hours of credit. The Superintendent of Public Instruction, in defining preparation for certain types of vocational teachers as equivalent to college training, shall give consideration to apprenticeship training and industrial experience.

(2) (a) The amount to be included in each school year in the foundation program of a district for teachers' salaries shall be determined by multiplying the number of teachers in each rank, not to exceed the number of classroom units allowed, by the amount set forth in the biennial budget schedule for each rank and experience for a term of 185 days. Provided, the amount to be included for units allotted under KRS 157.360(5), (7), (8) and (9) shall be increased proportionately if the personnel for such units are employed for longer than the regular school term and such employment is approved by the Superintendent of Public Instruction under Kentucky administrative regulations of the State Board of Education. Where the actual number of teachers employed by the district varies from the number allowed under the provisions of KRS 157.310 to 157.440, the number to be included in each rank shall be in the same ratio that the number of teachers actually in each rank is to the total number of teachers employed.

(b) The State Board of Education with the recommendation of the Superintendent of Public Instruction, may designate local school districts as Experimental Districts for the utilization of para-professionals and teacher aides including the utilization of para-professionals and teacher aides for exceptional children. In experimental districts, foundation program fund calculations shall include, with respect to one or more schools in the district, an amount for para-professionals and teacher aides. This amount may be equal to fifty (50) percent of the amount included for a teacher in Rank III with no experience, multiplied by the number of approved para-professionals and teacher aides employed in the designated school or schools.

(c) Such amounts may be included only for those who are not in sole and principal charge of a class. No district may receive foundation program funds for such number of para-professionals and teacher aides referred to in paragraph (b) of this subsection as exceeds one-half the number of certificated teachers in the designated school or schools.

(d) In the calculation of classroom units for the purpose of allocation of teachers' salaries only, the State Board of Education may use a ratio greater than twenty-seven to one for such calculations regarding the experimental districts designated pursuant to paragraph (b) of this subsection.

(3) The amount to be included in the foundation program for other current expenses shall be determined by multiplying the number of classroom units by the amounts set forth in the biennial budget.

(4) The amount to be included in the foundation program for capital outlay shall be determined by multiplying the number of classroom units by the amounts set forth in the biennial budget.

(5) The amount to be included in the foundation program of each district for transportation shall be determined by multiplying the aggregate attendance of transported children by the allowable cost per pupil per day for that district determined in accordance with the provisions of KRS 157.370.

(6) The total cost of the foundation program for each district shall be the sum of the allotments in subsections (2), (3), (4) and (5) of this section.

SECTION 19. KRS 157.400 IS CREATED TO READ AS FOLLOWS:

(1) The amount of money distributable to each district from the public school foundation program fund shall be determined by subtracting the required local tax effort from the total foundation program allotment for the district as determined in KRS 157.390.

(2) (a) If it shall be determined in subsection (1) of this section that the amount of money distributable to a school district for the school year 1976-77 shall be less than $300 per pupil in average daily attendance and, beginning in the 1977-78 school year, that the amount of money distributable to a school district shall be less than $327 per pupil in average daily attendance, then the apportionment for that district shall be increased to $300 per pupil in average daily attendance in 1976-77 and beginning in the 1977-78 school year the apportionment for that district shall be increased to $327 per pupil in average daily attendance; provided, however, if a district fails to provide the total potential classroom units under subsections (2), (7), (8) and (9) of KRS 157.360 and at least as many classroom units under subsections (5) and (6) of KRS 157.360 as were provided in each of these subsections in 1955-56, any increase in the apportionment called for in this subsection shall be reduced to the extent that the district fails to provide the classroom units.

(b) The average daily attendance referred to in this subsection shall be the prior year average daily attendance of the district adjusted proportionally for any increase in classroom units allotted the district under provisions of subsection (4) of KRS 157.360.

(c) The classroom unit requirement under this subsection relating to classroom units under subsections (5) and (6) of KRS 157.360 may be waived for any district by the superintendent of public instruction when it is shown that the need for these educational services no longer exists.

(3) In the event a district whose appropriation is increased under subsection (2) of this section is allotted classroom units under subsections (5), (6) and (10) of KRS 157.360 in excess of the number of such units allotted that district in 1955-56, then the allotment to that district determined in subsection (2) of this section shall be increased by the foundation program cost of these units determined in accordance with subsections (2), (4) and (5) of KRS 157.390.

(4) If the per pupil allotment to a school district as determined in subsections (1) and (3) of this section is an amount less than the allotment per pupil under KRS 157.400 during the next immediately preceding fiscal year, then the allotment shall be increased by an amount necessary to provide a per pupil average daily attendance allotment equal to the per pupil average daily attendance allotment for the next immediately preceding year; provided, however, if a district fails to provide the total potential classroom units under subsections (2), (7), (8), and (9) of KRS 157.360 and at least as many classroom units under subsection (5) or (6) of KRS 157.360 as were provided in 1955-56, any increase in the apportionment called for in this subsection shall be reduced to the extent that the district fails to provide the classroom units.

SECTION 20. KRS 157.410 IS CREATED TO READ AS FOLLOWS:

For each school year the executive department for finance and administration, on the certification of the superintendent of public instruction, shall draw warrants as specified hereinafter on the state treasurer for the amount of the public school foundation program fund due each district. Checks shall be issued by the state treasurer and transmitted to the department of education for distribution to the proper officials of the several school districts when the districts have fully complied with the school laws and Kentucky administrative regulations of the state board of education. The superintendent of public instruction shall determine on or before August 15 of each year the tentative allotment of school funds to which each district is entitled under the provisions of KRS 157.310 to 157.440. On July 1, August 1, and September 1, of each fiscal year, one-twelfth of the prior year's allotment minus the capital outlay shall be paid each school district. On the first of each month thereafter until the final calculation is completed, one-twelfth of each district's share of the tentative calculation for instructional salaries, current expenses, and transportation of the public common school foundation program fund shall be distributed. On or before May 1 of each year the Superintendent of Public Instruction shall determine the exact amount of the public common school foundation program fund to which each district is entitled and the remainder of the amount due each district for the year shall be distributed in equal installments beginning the first month after completion of final calculation and for each successive month thereafter. Capital outlay shall be made in two payments. The first, on or before October 1, shall be one-half of the amount calculated on the tentative allocation for capital outlay. The balance due shall be paid on or before May 1.

SECTION 21. KRS 157.420 IS CREATED TO READ AS FOLLOWS:

Public school foundation program funds made available to the credit of each district during any year, together with the funds required from local tax effort, shall be received, held and expended by the district board, subject to the provisions of law and Kentucky administrative regulations of the state board of education. The following restrictions shall govern the expenditure of funds from the public school foundation program fund:

(1) The teachers' salaries allotment for each district from the public school foundation program fund and from local sources shall be used only for teachers holding properly authorized certificates. The average salary paid any rank of teachers shall be at least equivalent to the amount set forth in the biennial budget schedule for each rank and experience for a term of 185 days. No teacher shall be paid less than 93 per cent of the public school foundation program fund allotment for that rank for full-time service during the regular

school year. This paragraph shall not apply to noncertificated personnel in experimental districts designated pursuant to paragraph (b) of subsection (2) of KRS 157.390.

(2) The state board of education shall not approve any working budget or salary schedule for local boards of education for any school year in which the total amount budgeted for teachers' salaries is not equal to an amount required to maintain the district's salary schedule of the preceding year plus the additional amount for teachers' salaries received by the district.

(3) The capital outlay allotment for each district from the public school foundation program fund and from local sources shall be kept in a separate fund and may be used by the district only for capital outlay projects approved by the superintendent of public instruction in accordance with requirements of law, and based on a survey made in accordance with Kentucky administrative regulations of the state board of education. These funds shall be used for the following capital outlay purposes:

(a) For direct payment of construction costs;

(b) For debt service on voted and funding bonds;

(c) For payment or lease-rental agreements under which the board eventually will acquire ownership of a school plant;

(d) For the retirement of any deficit resulting from over-expenditure for capital construction, if such deficit resulted from an emergency declared by the state board of education under KRS 160.550;

(e) As a reserve fund for the above-named purposes, to be carried forward in ensuing budgets; Provided, however, if any district has a special levy for capital outlay or debt service that is equal to the capital outlay allotment or a proportionate fraction thereof, and spends the proceeds of that levy for the above-named purposes, the superintendent of public instruction under Kentucky administrative regulations of the state board of education, may authorize the district to use all or a proportionate fraction of its capital outlay allotment for current expenses.

(4) If a survey shows that a school district has no capital outlay needs as shown in paragraphs (a), (b), (c), and (d) of subsection (3) of this section, upon approval of the superintendent of public instruction, these funds may be used for school plant maintenance, repair, insurance on buildings, replacement of equipment and purchase of school buses.

SECTION 22. KRS 157.430 IS CREATED TO READ AS FOLLOWS:

If, when the apportionments are being determined under the provisions of KRS 157.310 to 157.440, funds appropriated by the general assembly to the public school foundation program fund plus that portion of the funds required from local tax effort are insufficient to provide the amount of money required under subsections (1), (2), (3), and (4) of KRS 157.400, the superintendent of public instruction shall make a percentage reduction in the allotments to reduce the total of these allotments to funds available.

SECTION 23. KRS 157.990 IS CREATED TO READ AS FOLLOWS:

(1) Any person who wilfully violates any of the provisions of KRS 157.100 to 157.180 shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500).

(2) Any person who wilfully violates any of the provisions of KRS 157.310 to 157.440 shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500).

Section 24. KRS 157A.010, 157A.020, 157A.030, 157A.040, 157A.050, 157A.060, 157A.070, 157A.080, 157A.090, 157A.100, 157A.110, 157A.120, 157A.130, 157A.140, 157A.150, 157A.160 and 157A.990 are hereby repealed.

The Committee Amendment No. 2 to the Committee Substitute No. 1 for **HB 4** is as follows:

Amend printed copy of Committee Substitute No. 1 for **HB 4,** page 5, line 23, by deleting "July 1 following" and by adding in lieu thereof "on the date of".

The Committee on Education reported **HB 315,** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Ordered referred to the Committee on Rules.

The Committee on Public Utilities and Transportation reported **HB 471, HB 518, HB 560, HB 562, HB 567, HB 573,** and **HB 706** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 471, AN ACT relating to motor vehicles.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 189.455 is amended to read as follows:

(1) On the application of any person who has lost the use of a leg or both legs, or an arm or both arms, or any combination thereof, *or on application of a disabled veteran requiring the use of a wheelchair if such disability was service connected,* or any person who is blind, the department of transportation shall issue the handicapped person special registration plates designating the vehicle licensed as belonging to a handicapped person. The registration plates issued shall bear a handicapped insignia approved by the department, reading from left to right; and shall be followed by such numbers or letters as the department finds expedient. The department shall not issue registration plates so designated to any person other than a handicapped person. The department shall not charge any fee, other than the regular fee for annual registration, for the issuance of the registration plates.

(2) When a motor vehicle bearing plates issued to a handicapped person as prescribed in this section is being operated by or for the benefit of the handicapped person, the motor vehicle may be parked for a period of two hours in excess of the legal parking period permitted by local authorities, except where local ordinances or police regulations prohibit parking on a highway for the purpose of creating a fire lane or where the ordinances or police regulations provide for the accommodation of heavy traffic during morning, afternoon or evening hours or where the motor vehicle is parked in such a manner as to clearly be a traffic hazard.

HB 518, AN ACT relating to the safety and security of public airports.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 183.110 is amended to read as follows:

(1) The secretary and officers and employes of the department designated by order of the secretary shall be peace officers and may arrest any person found violating any provision of this chapter or any civil air regulation promulgated by the federal aviation *administration* agency.

(2) The secretary, in his discretion, may commission any official or employe of an airport board or governmental unit *not authorized by Section 2 of this Act to establish a safety and security department* as *peace* law enforcement officers and such persons so commissioned shall have all of the powers of peace officers in respect to the enforcement of this chapter or any civil air regulation promulgated by the federal aviation *administration* agency and rules and regulations promulgated by airport boards or governmental units.

SECTION 2. A NEW SECTION OF KRS CHAPTER 183 IS CREATED TO READ AS FOLLOWS:

The airport board created by a county containing a city of the second class, an urban-county government, or created jointly by a city of the first class and county is authorized to establish a safety and security department and appoint safety and security officers and other employes for the public airport for which it is responsible, to prescribe distinctive uniforms for the safety and security officers of the airport board, and to designate and operate emergency vehicles. Safety and security officers so appointed shall take an appropriate oath of office, in form and manner consistent with the Constitution of Kentucky, and shall serve at the pleasure of the airport board.

SECTION 3. A NEW SECTION OF KRS CHAPTER 183 IS CREATED TO READ AS FOLLOWS:

(1) Safety and security officers so appointed shall be peace officers and conservators of the peace. They shall have general police powers to arrest, without process, all persons who within their view commit any crime or misdemeanor. They shall possess all of the common law and statutory powers, privileges, and immunities of sheriffs, except that they shall be empowered to serve civil process to the extent authorized by the employing airport board. Without limiting the generality of the foregoing, such safety and security officers are hereby specifically authorized and empowered, and it shall be their duty:

(a) To preserve the peace, maintain order and prevent unlawful use of force or violence or other unlawful conduct on the airport facility of their respective airport board, and to protect all persons and property located thereon from injury, harm and damage;

(b) To enforce, and to assist officials of their respective airport boards in the enforcement of the lawful rules and regulations of said airport board, and to assist and cooperate with the law enforcement agencies and officers.

Provided, however, that such safety and security officers shall exercise the powers herein granted upon any real property owned or occupied by their respective airport boards including the streets passing through and adjacent thereto. Said powers may be exercised in any county of the Commonwealth where the airport board owns, uses, or occupies property. Additional jurisdiction may be established by agreement with the chief of police of the municipality or sheriff of the county or the appropriate law enforcement agency in which such property is located, dependent upon the jurisdiction involved.

(2) Safety and security officers may exercise their powers away from the locations described in subsection (1) of this section only upon the following conditions:

(a) When in hot pursuit of an actual or suspected violator of the law; or

(b) When authorized to do so pursuant to the agreement authorized by subsection (1) of this section; or

(c) When requested to act by the chief of police of the city or county in which the airport board's property is located; or

(d) When requested to act by the sheriff of the county in which the airport board's property is located; or

(e) When requested to act by the director of state police; or

(f) When requested to act by the authorized delegates of those persons or agencies listed in (c), (d) or (e) above; or

(g) When requested to assist a state, county or municipal police officer, sheriff, or other peace officer in the performance of his lawful duties; or

(h) When operating under an interlocal cooperation agreement pursuant to KRS Chapter 65.

(3) Safety and security officers appointed pursuant to this Act shall have, in addition to the other powers enumerated herein, the power to conduct investigations anywhere in this Commonwealth, provided such investigation relates to criminal offenses which occurred on property owned, leased, or controlled by the airport board. Where desirable and at the discretion of the airport board's police officials, the airport board's safety and security department may coordinate said investigations with any law enforcement agency of this Commonwealth or with agencies of the federal government.

(4) Safety and security departments created and operated by the airport boards shall, for all purposes, be deemed public police departments and the sworn safety and security officers thereof are, for all purposes, deemed public police officers.

(5) Nothing in this Act shall be construed as a diminution or modification of the authority or responsibility of any city or county police department, the Kentucky state police, sheriff, constable, or other peace officer either on the property of an airport board or otherwise.

SECTION 4. A NEW SECTION OF KRS CHAPTER 183 IS CREATED TO READ AS FOLLOWS:

All persons appointed as safety and security officers pursuant to this Act shall, at the time of their employment, be:

(1) Not less than eighteen years of age; and

(2) Comply with the requirements of KRS 61.300, other than the age and residency requirements; and

(3) Shall possess whatever other requirements as may be set by the airport board which employs them.

SECTION 5. A NEW SECTION OF KRS CHAPTER 183 IS CREATED TO READ AS FOLLOWS:

The airport board may provide for the appointment or promotion to the ranks and grades and positions of the department such officers and civilians as are considered by the airport board to be necessary for the efficient administration of the department. Such officers and civilians shall receive such compensation as shall be fixed and paid by the board.

SECTION 6. A NEW SECTION OF KRS CHAPTER 183 IS CREATED TO READ AS FOLLOWS:

(1) Vehicles used for emergency purposes by the safety and security department of an airport board shall be considered as emergency vehicles and shall be equipped with blue lights and sirens and shall be operated in conformance with the requirements of KRS Chapter 189.

(2) Safety and security departments of the airport boards may install, maintain, and operate radio systems on police or other frequencies under licenses issued by the Federal Communications Commission, or its successor;

(3) Safety and security departments of airport boards shall comply with the requirements of the Kentucky Revised Statutes and the Department of Public Safety with regard to reporting of criminal and other statistics.

SECTION 7. A NEW SECTION OF KRS CHAPTER 183 IS CREATED TO READ AS FOLLOWS:

(1) The airport boards, each having the power and authority to govern and control the method and purpose of use of property owned or occupied by their respective airports, including travel over such property, is each hereby confirmed in its authority to regulate the traffic and parking of motor vehicles or other vehicles as well as the traffic of pedestrians on, over and across the runways, streets, roads, paths and grounds of real property owned, used or occupied by such airport. Such regulations applicable to traffic and parking may

include, but not be limited to, the following provisions:

(a) Provisions governing the registration, speed, operation, parking and times, places and manner of use of motor vehicles, and other vehicles.

(b) Provisions prescribing penalties for the violation of such regulations, which penalties may include the imposition of reasonable charges, the removing and impounding (at the expense of the violator) of vehicles which are operated or parked in violation of such regulations, and the denial of permission to operate vehicles on the property of such airport.

(c) Provisions establishing reasonable charges and fees for the registration of vehicles and for the use of parking spaces or facilities owned or occupied by such airport.

Provided, however, that nothing herein contained shall be deemed to limit or restrict the powers of any other governmental authority having jurisdiction over public streets, roads, or ways.

(2) Motor vehicle moving violations of regulations issued under this section shall be deemed violations of the appropriate equivalent sections of the motor vehicle laws of the Commonwealth and may be prosecuted in the courts having territorial jurisdiction over the physical location of the offense.

SECTION 8. A NEW SECTION OF KRS CHAPTER 183 IS CREATED TO READ AS FOLLOWS:

(1) No person shall falsely represent himself to be a safety and security officer, agent or employe of a safety and security department of an airport board and in such assumed character, arrest, or detain or search, or question, in any manner the person or property of any person, nor shall any person without the authority of the airport board wear its official uniform, insignia, badge, or identification of the department.

(2) Any person who violates the provisions of this section shall be fined not less than fifty dollars ($50) nor more than one thousand dollars ($1,000) or shall be imprisoned in the county jail for not less than ten (10) nor more than ninety (90) days, or both.

Section 9. KRS 15.340 is amended to read as follows:

Subject to approval by the Secretary, the Bureau may make its facilities and services available upon the following terms:

(1) The Bureau may determine to which law enforcement agencies, corrections agencies and court agencies and its officers it will offer training;

(2) In determining the law enforcement officers for which it will offer training and in allocating available funds, the Bureau shall give first priority to "police officers" as defined by KRS 15.420(2), *public airport authority security officers,* and to the Kentucky State Police;

(3) Except for the officers described in subsection (2), the Bureau may determine whether persons to whom it offers training or agencies employing such persons must bear any or all costs of such training.

HB 560, AN ACT relating to aeronautics.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 183.010 is amended to read as follows:

As used in this chapter unless the context otherwise requires:

(1) "Federal Aviation *Administration*" Agency shall mean that agency or board of the United States government empowered to regulate operation of aircraft; aviation facilities and persons operating and maintaining aircraft;

(2) "Secretary" means the secretary of the department of transportation;

(3) "Department" means the department of transportation, the statutory administrative department of the commonwealth of Kentucky.

Section 2. KRS 183.011 is amended to read as follows:

(1) "Aeronautics" means the science and art of flight and including, but not limited to transportation by aircraft; the operation, construction, repair or maintenance of aircraft, aircraft power plants and accessories, including the repair, packing, and maintenance of parachutes; the design, establishment, construction, extension, operation, improvement, repair or maintenance of airports or other air navigation facilities; and instruction in flying or ground subjects pertaining thereto;

(2) "Aircraft" means any contrivance now known, or hereafter invented, used or designed for navigation of or flight in the air;

(3) "Air navigation" means the operation or navigation of aircraft in the air space over this state, or upon any airport within this state;

(4) "Air navigation facility" means any facility other than one owned or controlled by the United States, used in, available for use in, or designed for use in, aid of air navigation, including airports, rights, interests or easements in the navigable air space and any structures, mechanisms, lights, beacons, markers, communicating systems, or other instruments or devices used or useful as an aid, or constituting an advantage or convenience, to the safe taking off, navigation and landing of aircraft, or the safe and efficient operation or maintenance of an airport, and any combination of any or all of such facilities;

(5) "Airport" means any area, of land or water, which is designed for the landing and take-off of aircraft, whether or not facilities are provided for the shelter, servicing or repair of aircraft, or for receiving or discharging passengers or cargo, and all appurtenant areas used or suitable for airport building or other airport facilities, and all appurtenant rights of way, whether theretofore or hereinafter established;

(6) "Airport board", "airboard" or "board" means a board established as provided in this chapter and any airport board or airboard created pursuant to the provisions of KRS chapter 183 as it existed prior to the enactment of chapter 179, acts of the general assembly, regular session 1960, shall be deemed to have been established pursuant to this chapter with all of the powers, functions and duties as herein prescribed.

(7) "Airport facilities" includes land, buildings, equipment, runways and other improvements and appurtenances necessary for the establishment and maintenance of airports;

(8) "Airport hazard" means any structure, object or natural growth, or use of land, which obstructs the air space required for the flight of aircraft in landing or taking off at any airport or is otherwise hazardous to such landing or taking off;

(9) "Approach zone" means that area extending from the end of an airport runway in an inclined plane and increasing in elevation at a given ratio of horizontal to vertical feet, and which area may be more particularly identified and described by reference to the technical standard orders of the federal aviation agency;

(9) (10) "Certificate" means a certificate issued by the department;

(10) (11) "Civil aircraft" means any aircraft other than a public aircraft;

(11) (12) "Charter operator" means all persons who transport or seek to transport persons or property in intrastate commerce for hire on unscheduled service and not between fixed points;

(12) (13) "Common carrier" shall include all carriers for hire or compensation by air who operate, or seek to operate, over fixed routes or between fixed termini within the commonwealth of Kentucky;

(13) (14) "Commuter air carrier" means a common carrier of persons or property in intrastate commerce for hire or compensation by air, holding a certificate of public convenience and necessity under KRS 183.530 to 183.620, operating under Federal Aviation Regulation (FAR) Part 135 or other appropriate parts or regulations and who operates or seeks to operate on regular schedules with multi-engine aircraft between two or more fixed airport termini or over fixed routes only within the commonwealth of Kentucky and publishes flight schedules which specify the times, days of week, and places between which such flights are performed.

(14) (15) "Development" and "airport development" mean:

(a) Any work involved in planning, designing, constructing, improving or repairing a public airport or portion thereof, including the construction, alteration and repair of airport buildings and the removal, lowering, relocation and marking and lighting of airport hazards; and

(b) Any acquisition of land, or any interest therein, or of any easement through or other interest in air space which is necessary to permit any such work or to remove, mitigate, prevent or limit the establishment of airport hazards and expenses incident to the carrying out the provisions of this chapter;

(15) (16) "Navigable air space" means air space above the minimum altitudes of flight prescribed by the regulations of the federal aviation *administration* agency or department consistent therewith, and includes the air space necessary for normal landing or take off of aircraft;

(16) (17) "Operation of aircraft" or "operate aircraft" means the use, navigation or piloting of aircraft in the air space over this state, or upon any airport within this state. Any person who causes or authorizes the operation of aircraft, whether with or without the right of legal control as owner, lessee, or otherwise of the aircraft, shall be deemed to be engaged in the operation of aircraft within the meaning of the statutes of this state;

(17) (18) "Overhead line" means any cable, pipeline, wire or similar substance of any kind or description;

(18) (19) "Permit" means a permit issued by the department;

(19) (20) "Public aircraft" means an aircraft used exclusively in the service of any government or of any political subdivision thereof, including the government of the state, territory or possession of the United States, or the District of Columbia, but not including any government-owned aircraft engaged in carrying persons or property for commercial purposes;

(20) (21) "Public airport" means any airport which is used or to be used for public purposes under the control of a public agency, the landing area of which is publicly owned;

(21) (22) "Public use airport" means any airport in the state airport plan open for use by the general public not including a private airport used primarily for the benefit of the owner;

(22) (23) "State airport plan" means the plan of the department for the development of public and certain private airports for the benefit of the people of this state;

(23) (24) "State airway" means a route in the navigable air space over the lands or waters of this state, designated by the department as a route suitable for air navigation;

(24) (25) "Structure" means any object constructed or installed by man, including, but not limited to, buildings, towers, smokestacks, and overhead transmission lines;

(25) (26) "Tree" includes objects of natural growth.

Section 3. KRS 183.050 is amended to read as follows:

No person shall operate an aircraft within the state unless he and it are licensed and registered by the federal aviation *administration* agency.

Section 4. KRS 183.080 is amended to read as follows:

The department may promulgate air traffic rules applicable to the operation of aircraft within the state, but the rules shall be in conformity with the air traffic rules adopted by the federal aviation *administration* agency as nearly as possible. The department may also promulgate such other rules, not in conflict with the federal aviation *administration* agency regulations necessary for safe, adequate and convenient operation of airports, air navigation, air transportation and all matters relating to said functions.

Section 5. KRS 183.100 is amended to read as follows:

No person shall operate any aircraft within the state in any form of navigation whatsoever in violation of the air traffic rules promulgated by the department or the federal aviation *administration* agency . For enforcement purposes department personnel shall have access at all reasonable times to appropriate books, records and logs of any person operating aircraft in the state.

Section 6. KRS 183.867 is amended to read as follows:

(1) The commission shall require that every public airport in the state file with it, from time to time, as required, maps showing the airport and area surrounding such airport used for approach or landing purposes. The commission shall thereafter designate on such maps, by reference to the *regulations or standards promulgated by* technical standard orders of the federal aviation *administration* agency concerning the area required for the safe maneuvering approach and landing of aircraft, the area over which jurisdiction will be assumed for zoning purposes. The commission shall notify any local zoning bodies of the area so designated and may exercise jurisdiction of such area insofar as it pertains to the safe and proper maneuvering of aircraft and the safe and proper use of the airport involved. The local zoning body may retain jurisdiction of zoning in such areas as to all other matters.

(2) The commission may adopt such regulations pertaining to the zoning of areas over which jurisdiction is assumed as will provide for the proper and safe use of such area and airport.

(3) The commission shall maintain a public file in the offices of the department showing maps of each public airport within the state and the area around such airport over which it has assumed jurisdiction for zoning purposes and such shall constitute public notice of the restrictions and zoning applicable to such areas or airport. The commission shall also maintain a public file showing any regulations adopted pertaining to land uses in areas zoned and such shall constitute public notice of same.

Section 7. KRS 183.868 is amended to read as follows:

In addition to considering the *regulations or standards promulgated by* technical standard orders of the federal aviation *administration* agency in zoning the use of land and structures in areas over which jurisdiction is assumed, the commission shall consider among other things the safety of airport users and surface persons and property, the character of flying operations conducted at the airport, the nature of the terrain, the height of existing structures and trees above the level of the airport, the views of officials of the federal aviation *administration* agency as to the safe approaches required for operations at the airport, the future development of the airport including extensions to runways that may be required, the density of dwellings that may safely be permitted in the area, protection of the public investment in the airport and its facilities, the interest of the public in developing a sound public air transportation system within the state and the views and opinions of those owning land in such area.

Section 8. KRS 183.870 is amended to read as follows:

The commission shall establish by regulation the maximum height to which any structure may be erected within the navigable air space of the state. In establishing such maximum heights, the commission shall consider, among other things, the *regulations or standards promulgated by* technical standard orders of the federal aviation *administration* agency , the terrain involved, the location of the structure in relation to airports, the safety of aircraft, the safety of surface persons and structures, the future development of the area involved, the density of population and dwelling within the area involved, the interest of the public in developing a sound public air transportation system within the state and the interest of the person desiring to erect such structure, except that upon application to the commission, special permission may be granted to exceed such heights. The commission, shall before issuing any such permit, give consideration to the standards set out herein.

(2) In the air space above the ground outside of the areas in which airport zoning jurisdiction has been assumed by the rules and regulations of the Kentucky airport zoning commission, no structure shall be constructed, altered, or changed so that its height exceeds 1,000 feet above the ground, except upon application to and approval from the Kentucky airport zoning commission.

Section 9. KRS 183.500 is repealed.

HB 562, AN ACT relating to aviation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 183.150 is amended to read as follows:

Within the limits of the appropriation made to the department, the department may by agreement provide reimbursement to airport boards, for a period not to *extend beyond June 30, 1978* exceed twenty-four (24) months , to reimburse them for direct financial aid, or benefits and services in lieu thereof, which the airport boards have expended, in accordance with KRS 183.140 for the development of commuter air services that have provided their communities with regularly scheduled passenger, mail and cargo service or any combination thereof.

HB 567, AN ACT relating to air commerce.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 183.550 is amended to read as follows:

All applications for an intrastate certificate of public convenience and necessity *or charter permit* shall be in the form prescribed by the department and shall contain such information as the department may require. Such applications shall be accompanied by a filing fee of twenty-five ($25.00) dollars, proof of insurance and all other things required by law and regulations of the department. The department is empowered to levy reasonable charges for the use of state air routes and airways in compensation for expenses incurred by the department in administering the provisions of KRS 183.530 to 183.620, not to exceed, however, two per cent (2%) of the gross receipts from intrastate business of the carrier, and the annual total of such charges shall not exceed twenty-five thousand dollars ($25,000).

HB 573, AN ACT relating to the Kentucky Airport Zoning Commission.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 183 IS CREATED TO READ AS FOLLOWS:

The commission shall have authority to establish by regulation reasonable application fees for the issuance of permits.

SECTION 2. A NEW SECTION OF KRS CHAPTER 183 IS CREATED TO READ AS FOLLOWS:

Upon recommendation of an individual by the secretary, the commission shall appoint an administrator of the commission who shall have immediate supervision of the employes of the commission and perform such duties as are assigned him. The administrator shall be an individual familiar with aeronautics and the commission policy. He shall keep and be custodian of the records and airport zoning maps adopted by the commission, and shall devote his full time to the duties of his office.

HB 706, AN ACT relating to electrical inspectors and electricians.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 227.450 is amended to read as follows:

As used in KRS 227.450 to 227.500 unless the context otherwise requires:

(1) "Electrical contractor" means any individual, partnership or corporation that engages in the business of or employs others for the construction, alteration or repair of any electrical wiring used for the purpose of furnishing heat, light or power;

(2) "Electrician" means any person who is employed by an electrical contractor and is engaged in the construction, alteration or repair of any electrical wiring used for the purpose of furnishing heat, light or power;

(3) "Electrical" pertains to the installation of wires and conduits for the purpose of transmitting electricity, and the installation of fixtures and equipment in connection therewith.

(4) "Electrical inspector" means any person *certified by the public service commission pursuant to KRS 227.489 who, for compensation, inspects the construction and installation of electrical conductors, fittings, devices and fixtures for light, heat or power service equipment to ascertain the compliance with the National Electric Code incorporated in Article 1 of the Standards of Safety of the commonwealth of Kentucky or the electrical code of any city or county of the commonwealth of Kentucky* employed by a city or county and engaged in the inspection of wiring used for the purpose of furnishing heat, light, or power .

Section 2. KRS 227.460 is amended to read as follows:

(1) KRS 227.450 to 227.500 apply to cities of the second and third classes, and counties containing those cities.

(2) KRS 227.450 to 227.500 shall not apply to *installations under the exclusive control of electric utilities for the purpose of communication, metering, or for the generation, control, transformation, transmission and distribution of electric energy located in buildings used exclusively by utilities for such purposes or located out doors on property owned or leased by the utility or on public highways, streets or roads, or outdoors by established rights on private property* rural electric cooperatives, to factory maintenance men or any employes of the utility companies, railroads or municipalities in pursuit of their respective employer's business .

SECTION 3. A NEW SECTION OF KRS CHAPTER 227 IS CREATED TO READ AS FOLLOWS:

(1) An electrical inspector who certifies an electrical installation shall furnish and attach an approval sticker, bearing his signature and certification number in a conspicuous place on the main service entrance equipment. He shall also provide the owner of the electrical installation or his authorized agent with a certificate of approval if the same is requested. A complete record of each inspection shall be kept by the inspector and these records shall be made available to the public service commission upon its request.

(2) No electrical inspector shall attempt to supplant, overrule or otherwise invalidate the judgment of another electrical inspector whose services for a particular building, structure or other project have been solicited by an owner, contractor, municipality or other person without first obtaining express written consent from the designated inspector's office supervising the original inspector. Failure of an electrical inspector to observe this provision shall subject said inspector to review by the public service commission with possible suspension of certification for a period not to exceed one year from date of the commission's ruling.

SECTION 4. A NEW SECTION OF KRS CHAPTER 227 IS CREATED TO READ AS FOLLOWS:

It shall be the duty of the public service commission to investigate alleged misconduct of any electrical inspector as certified under this Act when, in the opinion of the commission, there is sufficient evidence to suggest that such misconduct exists. Any party may seek redress from the public service commission when alleged misconduct of an electrical inspector is deemed to have worked an undue hardship on the party.

The Committee on Judiciary-Statutes reported **HB 453,** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 453, AN ACT relating to cruelty to animals.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 436.605 is amended to read as follows:

(1) Dog wardens and officers and agents of humane societies shall have the powers of peace officers for the purpose of enforcing the provisions of the Kentucky Revised Statutes relating to cruelty and mistreatment of animals, provided they possess the qualifications required under KRS 61.300.

(2) Any *person,* peace officer, or any officer or agent of any society or association for the prevention of cruelty to animals duly incorporated under the laws of this Commonwealth, who shall make oath before any judge of a court that he has reasons to believe or does believe that an act of cruelty to animals is being committed in a building, barn or other enclosure, the said judge shall thereupon on proof of demand having been made, issue a search warrant directed to any peace officer, or any officer or agent of any society or association for the prevention of cruelty to animals duly incorporated under the laws of this Commonwealth or other peace officer to search the said premises, and if upon such search it is found that an act of cruelty to animals is being perpetrated to forthwith arrest such offender or offenders and bring him or them before the said court for trial.

(3) The judge shall order that such alleged cruelly treated animals be placed with a person or a society or association for the prevention of cruelty to animals duly incorporated under the laws of this commonwealth, for proper care while the alleged offender awaits trial.

The Committee Substitute for **HB 453** is as follows:

HB 453, AN ACT relating to cruelty to animals.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 436.605 is amended to read as follows:

(1) Dog wardens and officers and agents of humane societies shall have the powers of peace officers for the purpose of enforcing the provisions of the Kentucky Revised Statutes relating to cruelty and mistreatment of animals, provided they possess the qualifications required under KRS 61.300.

(2) Any peace officer, or any officer or agent of any society or association for the prevention of cruelty to animals duly incorporated under the laws of this Commonwealth, *or in a county not having such a society or association, any person* who shall make oath before any judge of a court that he has reasons to believe or does believe that an act of cruelty to animals is being committed in a building, barn or other enclosure, the said judge shall thereupon on proof of demand having been made, issue a search warrant directed to any peace officer, or any officer or agent of any society or association for the prevention of cruelty to animals duly incorporated under the laws of this Commonwealth or other peace officer to search the said premises, and if upon such search it is found that an act of cruelty to animals is being perpetrated to forthwith arrest such offender or offenders and bring him or them before the said court for trial.

(3) The judge may order that such alleged cruelly treated animals be placed with a society or association for the prevention of cruelty to animals duly incorporated under the laws of this Commonwealth or with a concerned person who would voluntarily give proper care to said animals while the alleged offender awaits trial.

(4) There shall be no cost to the county or court for the care and keeping of said animal and the owner of said animals shall retain the right at any time to sell his interest in said animals or to otherwise dispose of said animals in any manner deemed proper by the court.

The Committee on State Government reported **HB 137,** with Committee Substitute attached thereto, and **HB 138,** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 137, AN ACT relating to administrative adjudicatory proceedings and judicial review thereof.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 13 is created to read as follows:

This Act may be cited as the Kentucky Administrative Procedure Act.

Section 2. A new section of KRS Chapter 13 is created to read as follows:

(1) "Agency" means any form of governmental organization in the executive branch of state government authorized by law to administer regulations, make administrative decisions, or conduct adjudicatory proceedings. The term shall include the Governor when he, issues executive orders which may affect the rights of any group or individual, but shall exclude the Governor while performing all other duties. The term shall not include agencies in the legislative or judicial branches, or any agency acting within its capacity as administrator of the military affairs of the state under KRS Chapters 35, 36, 37, 38, or 39.

(2) "Adjudicatory proceedings" means any proceeding, except regulation-making proceedings as defined in KRS Chapter 13, in which the legal rights, duties, privileges or immunities of a specifically named person are required or permitted by law to be determined by an agency after an opportunity for a hearing. The term includes, but is not limited to, rate-making, price-determination and licensing.

(3) "Party" means

(a) the specifically named person whose legal rights, duties, privileges or immunities are being determined in the adjudicatory proceeding;

(b) any other person who by law is entitled or permitted to participate fully in the adjudicatory proceeding;

(c) any agency named as a party to the adjudicatory proceeding or entitled or permitted by law to participate fully in the adjudicatory proceeding.

(4) "Person" means any individual, any form of business enterprise, any public or private organization, or any political subdivision of the state, other than an agency.

(5) "Agency head" means the individual or collegial body in an agency that is responsible for final agency action.

(6) "License" means the whole or part of any permit, certificate, approval, registration, charter, or similar form of permission issued under authority of the state and required by law.

(7) "Licensing" means the agency process respecting the grant, denial, renewal, revocation, suspension, annulment, withdrawal, or amendment of a license.

(8) "Recommendation" means the whole or part of a hearing examiner's advisory report to an agency head, for the disposition of an adjudicatory proceeding.

(9) "Final order" means the whole or part of the final disposition of an adjudicatory proceeding made by an agency head, whether affirmative, negative, injunctive, declaratory, or imperative in form.

(10) "Hearing examiner" means the individual, duly qualified and appointed pursuant to this Act, assigned by an agency head to conduct a hearing in an adjudicatory proceeding.

Section 3. A new section of KRS Chapter 13 is created to read as follows:

All adjudicatory proceedings conducted by an agency shall follow the procedures and requirements as set forth in Sections 4 through 20 of this Act.

Section 4. A new section of KRS Chapter 13 is created to read as follows:

(1) When conducting adjudicatory proceedings in which a hearing is to be held, agencies shall:

(a) give all parties an opportunity for a full and fair hearing;

(b) give all parties the opportunity to be represented by legal counsel;

(c) give all parties the opportunity to respond and present evidence and argument on issues of fact, law or policy;

(d) give all parties the opportunity to examine staff memoranda and data considered by the agency in the disposition of the case which are not made confidential or privileged by law; and

(e) allow any person who shows that he may be substantially or specifically affected by a proceeding and who intervenes in a proceeding in accordance with this Act to participate by presentation of argument orally or in writing, or for any limited purpose, as the agency may determine;

(f) make available to public inspection all final orders in the adjudication of cases except those required by law to be held confidential.

(2) Unless otherwise precluded by law, in conducting adjudicatory proceedings agencies may:

(a) place on any party the responsibility of requesting a hearing when the agency head notifies him in person or by certified mail of his right to a hearing and of his responsibility to request a hearing;

(b) make informal disposition of any adjudicatory proceeding by stipulation, agreed settlement, consent order, or default;

(c) limit the issues to be heard and vary the procedures prescribed by this Act, if all the parties to the proceeding agree to such limitation or variation;

(d) order proceedings involving a common question of law or fact to be consolidated for hearing on any or all of the matters in issue in such proceedings upon motion by a party to a proceeding, or upon its own motion.

Section 5. A new section of KRS Chapter 13 is created to read as follows:

(1) No order issued by an agency denying an applicant a license shall be effective without notice and opportunity for hearing as set forth in this Act.

(2) Within forty-eight (48) hours of agency action to deny the issuance of a license to an applicant, the agency shall notify the applicant by certified mail of his opportunity of a hearing on the denial.

(3) The applicant may, within thirty (30) days of receipt of notice, request a hearing on the denial. Hearings requested pursuant to this section shall be subject to the provisions governing adjudicatory proceedings set forth in Sections 4 through 20 of this Act.

(4) Except as provided in subsection (6) of this section, no order revoking, suspending, limiting or withdrawing a license from a licensee shall be effective until the completion of an adjudicatory proceeding and the entry of a final decision.

(5) When a licensee has made timely and sufficient application for a license renewal in accordance with agency regulations, a license with reference to an activity of a continuing nature shall not expire until the application has been determined by a final decision of the agency in accordance with this Act.

(6) Suspension of a license may be ordered pending an adjudicatory proceeding if the agency finds that public, health, welfare, or safety imperatively requires emergency action, and incorporates a finding to that effect in its order and promptly institutes an adjudicatory proceeding. Upon the summary suspension of a license, the aggrieved licensee may petition the Franklin Circuit Court or the circuit court of the county of his residence for a review of the agency's finding upon which the suspension was based. If the reviewing court finds that the administrative body's finding of an emergency is unwarranted, the summary suspension shall be set aside. For the purpose of this circuit court review and for the purposes of appeal to the Court of Appeals, the proceeding shall be considered as though it were a motion to dissolve a temporary injunction.

(7) Subsections (1), (2), and (3) of this section shall not apply when the agency's denial to issue a license is a result of the applicant's failure of an examination required by law before such license may be issued by the agency. Mere failure of such examination shall not entitle a person to a hearing under this Act.

Section 6. A new section of KRS Chapter 13 is created to read as follows:

(1) In an adjudicatory proceeding in which an agency is required to hold a hearing at the request of any person, the agency shall set the date for the hearing within twenty (20) days after receiving the petition for a hearing.

(2) In any adjudicatory proceeding in which a hearing is to be held, the agency shall conduct the hearing as soon as practicable and shall give notice of the hearing to the parties not less than twenty (20) days in advance of the date set for the hearing.

(3) The notice required by subsection (2) of this section shall be served on the parties personally or by certified mail, return receipt requested. When any indispensable and necessary party to an adjudicatory proceeding consists of a large class, the notice may be served on a reasonable number thereof as representatives of the class.

(4) The notice required by this section shall be in plain language and shall include:

(a) a statement of the time, place and nature of the hearing;

(b) a statement of the legal authority under which the hearing is to be held;

(c) a statement of the issues involved in sufficient detail to give the parties reasonable opportunity to prepare evidence and argument;

(d) a reference to the specific statutes and regulations which relate to the issues involved;

(e) a statement advising the person of his right to legal counsel;

(f) a statement of the right of any party to subpoena witnesses and documentary evidence through the agency; and

(g) a statement of the parties' right to examine any relevant staff memoranda or data, not made confidential or privileged by law, of which the agency avails itself as evidence in making a decision in an adjudicatory proceeding.

Section 7. A new section of KRS Chapter 13 is created to read as follows:

(1) The agency head may exercise all powers conferred on the agency relating to the conduct of adjudicatory proceedings and may delegate any such powers, except the power to issue final or declaratory orders, to any member of the agency head or to a hearing examiner.

(2) A hearing examiner, agency head, or member of the agency head shall voluntarily disqualify himself and withdraw from any case in which he cannot afford a fair and impartial hearing or consideration. Any party may request the disqualification of a hearing examiner, agency head, or member of the agency head by filing an affidavit, prior to the taking of evidence in an adjudicatory proceeding, stating the particular grounds upon which he claims that a fair and impartial hearing cannot be accorded. All requests for disqualification shall be determined by the agency head, except that when the request concerns a member of an agency head, the issue shall be determined by the other members of the agency head.

Section 8. A new section of KRS Chapter 13 is created to read as follows:

In each adjudicatory proceeding:

(1) Findings of fact shall be based exclusively on the evidence on the record.

(2) Irrelevant, immaterial, or unduly repetitious evidence shall be excluded and the rules of privilege shall be given effect.

(3) The rules of evidence as applied in civil cases shall be followed. When necessary to ascertain facts which cannot otherwise be proved, evidence not admissible under the rules applied in civil cases may be admitted if it is of the type commonly relied upon by reasonably prudent men in the conduct of their affairs. Hearsay evidence may be used for the purpose of supplementing or explaining other evidence, but it shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions.

(4) All testimony of parties and witnesses shall be made under oath, and any part of the evidence may be received by depositions.

(5) The general provisions governing depositions and discovery as set forth in Rules 26.01 to 37.05 of the rules of civil procedure shall be followed.

(6) Any party may conduct such cross-examination as may be required for a full and true disclosure of the facts so long as it is not of an irrelevant, immaterial, or unduly repetitious nature.

(7) Objections to evidentiary offers may be made by any party and shall be noted in the record.

(8) The hearing examiner or agency head may take official notice of facts which are indisputable and of generally recognized technical or scientific facts within the agency's specialized knowledge. The hearing examiner shall notify all parties, either before or during the hearing, or in preliminary reports or otherwise, of any technical or scientific fact so noticed and its source. All parties shall be given an opportunity to contest technical or scientific facts officially noticed.

Section 9. A new section of KRS Chapter 13 is created to read as follows:

(1) Agencies shall issue subpoenas authorized by statute and the common law upon their own motion or when requested by a party. When a subpoena is disobeyed, any party may apply to the Circuit Court of the district in which the adjudicatory proceeding is held for an order requiring obedience. Failure to comply with an order of the court shall be cause for punishment as a contempt of the court.

(2) Witnesses shall be entitled to compensation as witnesses under KRS 421.010, and each party shall pay the cost of its subpoenas and the compensation of its witnesses.

Section 10. A new section of KRS Chapter 13 is created to read as follows:

(1) In each adjudicatory proceeding, agencies shall keep a record of the proceedings which shall include:

(a) all notices, pleadings, motions and intermediate rulings;

(b) evidence received and considered;

(c) a statement of matters officially noticed;

(d) questions and offers of proof and rulings thereon;

(e) proposed findings and exemptions;

(f) any decision (including any initial, recommended, or tentative decision) opinion, report, or recommendation made by the hearing examiner presiding at the adjudicatory proceeding;

(g) all requests made to the agency head by the hearing examiner for an extension of time, and the hearing examiner's grounds for such a request;

(h) all decisions made by the agency head in the granting or denial of a request for an extension of time and a brief statement by the agency head stating his grounds for the granting or denial of the hearing examiner's request for an extension of time; and

(i) the official transcript.

(2) The agency shall accurately and completely preserve all testimony in the proceeding, and it shall make a full transcript available to any party, upon request. The agency shall charge a party no more than the actual cost of photocopying, or other means of duplicating, for a copy of the transcript. Also, the agency shall not charge for the cost of recording or transcribing, or other cost.

Section 11. A new section of KRS Chapter 13 is created to read as follows:

(1) The hearing examiner shall complete and submit to the agency head, no later than sixty (60) days after receiving a copy of the official transcript a written recommendation which shall include his findings of fact, conclusion of law, and recommended disposition of the adjudicatory proceeding, including recommended penalties, if any.

(2) If an extension of time is needed by the hearing examiner to complete and submit his recommendation to the agency head, the hearing examiner shall show good cause to the agency head, in writing, and based upon substantial proof, that an extension of time is needed.

(3) If the agency head, after a showing of good cause, grants the hearing examiner an extension of time, it shall:

(a) not exceed thirty (30) days from the date the extension was granted;

(b) be included in the record of the adjudicatory proceeding.

(4) In making the final order, the agency head shall consider the whole record or such portions of the record as may be cited by the parties.

(5) The agency head may accept the recommendation of the hearing examiner and adopt it as the agency's final order, or he may reject or modify all or part of the recommendation. If the agency head rejects or modifies any part of the recommendation, he shall state with particularity in the final order his reasons for the rejection or modification.

Section 12. A new section of KRS Chapter 13 is created to read as follows:

(1) The final order in an adjudicatory proceeding shall be in writing and stated in the record. The final order shall include separate statements of findings of fact, conclusions of law, the reasons for the decisions made, and the effective date of the order.

(2) The agency head shall render a final order in an adjudicatory proceeding within ninety (90) days after:

(a) the hearing examiner submits a recommendation to the agency head; or

(b) the agency head has received a copy of the official transcript from a proceeding in which a hearing examiner was not employed.

(3) The agency head shall notify the parties, either personally or by certified mail, of the final order. Unless waived by the party, a copy of the final order shall be delivered or mailed to each party or to his attorney of record.

(4) Nothing in this section shall prevent agencies from entering decisions in adjudicatory proceedings informally disposed of under subsection (2)(b) of Section 4 of this Act.

Section 13. A new section of KRS Chapter 13 is created to read as follows:

(1) Any agency may, on petition by any interested person, issue a declaratory order with respect to the applicability to any person, property or state of facts of any regulation, order or statute enforced by the agency.

(2) Petitions for declaratory orders shall be in writing and in the form prescribed by the agency.

(3) A declaratory order shall bind the agency and all parties to the proceedings on the state of facts alleged, and a declaratory order rendered by an agency shall be a defense in subsequent charges concerning the person who requested the order and who acted in reliance on it in good faith, unless:

(a) material facts were intentionally omitted or misstated by the person in requesting the order; or

(b) the order is altered or set aside by a court.

(4) Petitions for declaratory orders shall be filed with the head of the agency.

(5) Within twenty (20) days after receiving a petition for a declaratory order, an agency head shall either deny the petition in writing or shall issue a declaratory order. If the agency head denies the petition, he shall notify the petitioner of the reasons for the denial.

Section 14. A new section of KRS Chapter 13 is created to read as follows:

(1) All hearings in adjudicatory proceedings shall be conducted by either a hearing examiner qualified and appointed pursuant to this section or by an agency head, or a member of an agency head. Final order shall be issued only by an agency head.

(2) Each agency may appoint as many hearing examiners as are necessary to conduct hearings in adjudicatory proceedings of the agency, or may obtain the services of hearing examiners according to Section 21 of this Act. Agencies may utilize hearing examiners employed by other agencies with the consent of the employing agency.

(3) Hearing examiners shall perform no duties inconsistent with their duties as hearing examiners. An agency head or a member of an agency head who conducts a hearing may participate in the formulation of the agency's final order in the adjudicatory proceeding if he has completed all of his duties as hearing examiner.

(4) All hearing examiners shall be included within the classified service to which KRS 18.110 to 18.360 applies, unless they:

(a) occupy positions specifically excluded from the classified service by KRS 18.140;

(b) are part-time employees; or

(c) hold personal service contracts.

(5) In addition to other qualifications for hearing examiners established by statute, hearing examiners shall possess:

(a) a four (4) year degree from an accredited college or university in a field closely related to the work performed by the agency in which he is employed. Two (2) years of work experience in a responsible position in a field closely related to the agency's work may be substituted for each year of college or university training; or

(b) a master's license, or its equivalent, and five (5) years of work experience in a field closely related to the agency's work, if the agency's work involves the regulation of an occupation or trade.

(6) The Department of Personnel and Personnel Board, in cooperation with each agency, may establish additional qualifications not inconsistent with this Act, which all or certain classes of hearing examiners shall be required to possess.

Section 15. A new section of KRS Chapter 13 is created to read as follows:

(1) The Executive Department for Finance and Administration may employ one or more hearing officers for assignment to the individual agencies at their request, for the conduct of adjudicatory proceedings. Nothing in this subsection shall prevent an agency from employing a hearing officer independent of the Executive Department for Finance and Administration.

(2) The Executive Department for Finance and Administration shall charge each agency a reasonable amount for administrative services provided by subsection (1) of this section.

Section 16. A new section of KRS Chapter 13 is created to read as follows:

(1) No hearing examiner or agency head participating in an adjudicatory proceeding shall communicate off the record about a case with any party, representative of a party, or agency employe engaged in advocating, investigating, or prosecuting in connection with the case under consideration.

(2) No party, representative of a party, or agency member engaged in advocating, investigating or prosecuting in connection with an adjudicatory proceeding shall communicate off the record about the case with any hearing examiner or agency head participating in the adjudicatory proceeding.

(3) Any violation of the communication prohibited by subsections (1) or (2) of this section shall constitute grounds for judicial review in accordance with Section 18 of this Act.

Section 17. A new section of KRS Chapter 13 is created to read as follows:

(1) Each agency may promulgate, according to KRS 13.075 through 13.125, regulations not inconsistent with this Act governing the procedures for scheduling and conducting adjudicatory proceedings.

(2) Upon application of any agency, the Administrative Regulations Review Subcommittee may exempt any class of proceedings governed by this Act from one or more requirements of this Act when:

(a) The agency head certifies that the requirement would conflict with any provision of federal law or regulation with which the agency must comply, or with any federal law or regulation with which the agency must comply to permit the agency or persons within the Commonwealth to receive tax benefits or federal funds;

(b) The Administrative Regulations Review Subcommittee finds that conformity with the requirement of this Act from which exemption is sought would be so inconvenient or so impractical as to defeat the legislative purpose of guaranteeing basic rights of due process and the administration of justice without undue delay in adjudicatory proceedings.

(3) The Administrative Regulations Review Subcommittee shall not exempt an agency from any requirement of this Act until the agency establishes alternative procedures, by regulation, which insofar as practical shall be consistent with the intent and purpose of this Act.

Section 18. A new section of KRS Chapter 13 is created to read as follows:

(1) All final decisions of the agency are subject to judicial review under this Act.

(2) Proceedings for review shall be instituted by filing a petition in the Franklin Circuit Court or in the circuit court of the county of the aggrieved person's residence within thirty (30) days after the decision of the agency becomes final. Copies of the petition shall be served upon the agency and all parties of record.

(3) The filing of the petition does not itself stay enforcement of the agency's decision. The agency may grant, or for good cause the reviewing court may order, a stay upon appropriate terms.

(4) Within twenty (20) days after the service of the petition, or within further time allowed by the court, the agency shall transmit to the reviewing court the original or a certified copy of the entire record of the proceeding under review. By stimpulation of all parties to the review proceedings the record may be shortened. A party unreasonably refusing to stipulate to limit the record may be taxed by the court for the additional costs. The court may require or permit subsequent correction or additions to the record.

(5) If, before the date set for hearing, application is made to the court for leave to present additional evidence, and it is shown to the satisfaction of the court that the additional evidence is material and that there were good reasons for failure to present it at the adjudicatory proceeding, the court may order that the additional evidence be taken before the agency upon conditions determined by the court. The agency may modify its findings and decision by reason of the additional evidence and shall file that evidence and any modifications, new findings, or decisions with the reviewing court.

(6) The review shall be conducted by the court without a jury and shall be confined to the record. The court, upon request, may hear oral argument and receive written briefs.

(7) The court shall not substitute its judgment for that of the agency as to the weight of the evidence on questions of fact. The court may affirm the decision of the agency or remand the case for further proceedings. The court may reverse or modify the decision if substantial rights of the appellant have been prejudiced because the agency's findings, interferences, conclusions, or decisions are:

(a) in violation of constitutional or statutory provisions;

(b) in excess of the statutory authority of the agency;

(c) made upon unlawful procedure;

(d) affected by other error of law;

(e) clearly without support of the substantial evidence on the whole record; or

(f) arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion;

(g) there had been a violation of ex parte communication as put forth in Section 16 of this Act;

(h) there had been a violation of Section 7(2) as put forth in this Act.

Section 19. A new section of KRS Chapter 13 is created to read as follows:

Any aggrieved party may obtain a review of any final judgment of the circuit court under this Act by appeal to the Court of Appeals. The appeal shall be taken as in other civil cases.

Section 20. A new section of KRS Chapter 13 is created to read as follows:

The Kentucky Rules of Civil Procedure shall apply to all aspects of an adjudicatory proceeding not otherwise stated in this Act.

Section 21. A new section of KRS Chapter 13 is created to read as follows:

The power vested in every agency to adopt adjudicatory procedures shall be uniform and shall be confined to the direct implementation of the functions and duties assigned to an agency by the General Assembly, or by executive order. All grants of authority to adopt adjudicatory procedures inconsistent with this provision are hereby repealed.

Section 22. A new section of KRS Chapter 13 is created to read as follows:

The effective date of this Act shall be January 1, 1977, except as to adjudicatory proceeding then pending.

Section 23. A new section of KRS Chapter 13 is created to read as follows:

Any person who engages in a communication prohibited by Section 16(1)(2), shall, for each communication be fined not less than ten ($10) dollars nor more than one hundred ($100) dollars.

Section 24. A new section of KRS Chapter 13 is created to read as follows:

The Legislative Research Commission is hereby directed to identify and to draft legislation for introduction in the 1978 General Assembly repealing or amending all provisions of the Kentucky Revised Statutes in conflict with this Act.

The Committee Substitute for **HB 137** is as follows:

HB 137, AN ACT relating to administrative adjudicatory proceedings and judicial review thereof.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 13 IS CREATED TO READ AS FOLLOWS:

This Act may be cited as the Kentucky Administrative Procedure Act.

SECTION 2. A NEW SECTION OF KRS CHAPTER 13 IS CREATED TO READ AS FOLLOWS:

(1) "Agency" means any form of governmental organization in the executive branch of state government authorized by law to administer regulations, make administrative decisions, or conduct adjudicatory proceedings. The term shall not include the Governor, agencies in the legislative or judicial branches, or any agency acting within its capacity as administrator of the military affairs of the state under KRS Chapters 35, 36, 37, 38, or 39.

(2) "Adjudicatory proceedings" means any proceeding, except regulation-making proceedings as defined in KRS Chapter 13, in which the legal rights, duties, privileges or immunities of a specifically named person are required or permitted by law to be determined by an agency after an opportunity for a hearing. The term includes, but is not limited to, rate-making, price-determination and licensing.

(3) "Party" means

(a) the specifically named person whose legal rights, duties, privileges or immunities are being determined in the adjudicatory proceeding;

(b) any other person who by the law being enforced is entitled or permitted to participate fully in the adjudicatory proceeding;

(c) any agency named as a party to the adjudicatory proceeding or entitled or permitted by the law being enforced to participate fully in the adjudicatory proceeding.

(4) "Person" means any individual, any form of business enterprise, any public or private organization, or any political subdivision of the state, other than an agency.

(5) "Agency head" means the individual or collegial body in an agency that is responsible for final agency action.

(6) "License" means the whole or part of any permit, certificate, approval, registration, charter, or similar form of permission issued under authority of the state and required by law.

(7) "Licensing" means the agency process respecting the grant, denial, renewal, revocation, suspension, annulment, withdrawal, or amendment of a license.

(8) "Recommendation" means the whole or part of a hearing examiner's advisory report to an agency head, for the disposition of an adjudicatory proceeding.

(9) "Final order" means the whole or part of the final disposition of an adjudicatory proceeding, whenever made effective, by an agency head, whether affirmative, negative, injunctive, declaratory, or imperative in form.

(10) "Hearing examiner" means the individual, duly qualified and appointed pursuant to this Act, assigned by an agency head to conduct a hearing in an adjudicatory proceeding.

SECTION 3. A NEW SECTION OF KRS CHAPTER 13 IS CREATED TO READ AS FOLLOWS:

All adjudicatory proceedings conducted by an agency shall follow the procedures and requirements as set forth in Sections 4 through 20 of this Act.

SECTION 4. A NEW SECTION OF KRS CHAPTER 13 IS CREATED TO READ AS FOLLOWS:

(1) When conducting adjudicatory proceedings in which a hearing is to be held, agencies shall:

(a) give all parties an opportunity for a full and fair hearing;

(b) give all parties the opportunity to be represented by legal counsel;

(c) give all parties the opportunity to respond and present evidence and argument on issues of fact, law or policy;

(d) give all parties the opportunity to examine staff memoranda and data considered by the agency in the disposition of the case which are not made confidential or privileged by law; and

(e) allow any person who shows that he may be substantially or specifically affected by a proceeding, and who intervenes in a proceeding in accordance with the law being enforced, to participate by presentation of argument orally or in writing, or for any limited purpose, as the agency may determine;

(f) make available to public inspection all final orders in the adjudication of cases except those required by law to be held confidential.

(2) Unless otherwise precluded by law, in conducting adjudicatory proceedings agencies may:

(a) place on any party the responsibility of requesting a hearing when the agency head notifies him in person or by certified mail of his right to a hearing and of his responsibility to request a hearing;

(b) make informal disposition of any adjudicatory proceeding by stipulation, agreed settlement, consent order, or default;

(c) limit the issues to be heard and vary the procedures prescribed by this Act, if all the parties to the proceeding agree to such limitation or variation;

(d) order proceedings involving a common question of law or fact to be consolidated for hearing on any or all of the matters in issue in such proceedings upon motion by a party to a proceeding, or upon its own motion.

SECTION 5. A NEW SECTION OF KRS CHAPTER 13 IS CREATED TO READ AS FOLLOWS:

(1) No order issued by an agency denying an applicant a license shall be effective without notice and opportunity for hearing as set forth in this Act.

(2) Within forty-eight (48) hours of agency action to deny the issuance of a license to an applicant, the agency shall notify the applicant by certified mail of his opportunity of a hearing on the denial.

(3) The applicant may, within thirty (30) days of receipt of notice, request a hearing on the denial. Hearings requested pursuant to this section shall be subject to the provisions governing adjudicatory proceedings set forth in Sections 4 through 20 of this Act.

(4) Except as provided in subsection (6) of this section, no order revoking, suspending, limiting or withdrawing a license from a licensee shall be effective until the completion of an adjudicatory proceeding and the entry of a final decision.

(5) When a licensee has made timely and sufficient application for a license renewal in accordance with agency regulations, a license with reference to an activity of a continuing nature shall not expire until the application has been determined by a final decision of the agency in accordance with this Act.

(6) An agency head may suspend a license, or vacate or modify an order relating thereto, pending an adjudicatory proceeding, if the agency finds that: (a) public health, welfare, or safety imperatively requires emergency or ameliorative action; (b) the conditions prompting the order's entry have changed; or (c) it is otherwise in the public interest to do so, and incorporates a finding to that effect in its order, provides notice and promptly institutes an adjudicatory proceeding. Upon the summary suspension of a license, the aggrieved licensee may petition the Franklin Circuit Court or the circuit court of the county of his residence for a review of the agency's finding upon which the suspension was based. If the reviewing court finds that the administrative body's finding is unwarranted, the summary suspension shall be set aside. For the purpose of this circuit court review and for the purposes of appeal to the Court of Appeals, the proceeding shall be considered as though it were a motion to dissolve a temporary injunction.

(7) Subsections (1), (2), and (3) of this section shall not apply when the agency's denial to issue a license is a result of the applicant's failure of an examination required by law before such license may be issued by the agency. Mere failure of such examination shall not entitle a person to a hearing under this Act.

SECTION 6. A NEW SECTION OF KRS CHAPTER 13 IS CREATED TO READ AS FOLLOWS:

(1) In an adjudicatory proceeding in which an agency is required to hold a hearing upon complaint or at the request of any person, the agency shall set the date for the hearing and give notice to the parties of such date within twenty (20) days after receiving the complaint or petition for a hearing.

(2) In any adjudicatory proceeding in which a hearing is to be held, the agency shall conduct the hearing as soon as practicable and shall give notice of the hearing to the parties not less than twenty (20) days in advance of the date set for the hearing.

(3) The notice required by subsection (2) of this section shall be served on the parties personally or by certified mail, return receipt requested. When any indispensable and necessary party to an adjudicatory proceeding consists of a large class, the notice may be served on a reasonable number thereof as representatives of the class.

(4) The notice required by this section shall be in plain language and shall include:

(a) a statement of the time, place and nature of the hearing;

(b) a statement of the legal authority under which the hearing is to be held;

(c) a statement of the issues involved in sufficient detail to give the parties reasonable opportunity to prepare evidence and argument;

(d) a reference to the specific statutes and regulations which relate to the issues involved;

(e) a statement advising the person of his right to legal counsel;

(f) a statement of the right of any party to subpoena witnesses and documentary evidence through the agency; and

(g) a statement of the parties' right to examine any relevant staff memoranda or data, not made confidential or privileged by law, of which the agency avails itself as evidence in making a decision in an adjudicatory proceeding.

SECTION 7. A NEW SECTION OF KRS CHAPTER 13 IS CREATED TO READ AS FOLLOWS:

(1) The agency head may exercise all powers conferred on the agency relating to the conduct of adjudicatory proceedings and may delegate any such powers, except the power to issue final or declaratory orders, to any member of the agency head or to a hearing examiner.

(2) A hearing examiner, agency head, or member of the agency head shall voluntarily disqualify himself and withdraw from any case in which he cannot afford a fair and impartial hearing or consideration. Any party may request the disqualification of a hearing examiner, agency head, or member of the agency head by filing an affidavit, prior to the taking of evidence in an adjudicatory proceeding, stating the particular grounds upon which he claims that a fair and impartial hearing cannot be accorded. All requests for disqualification shall be determined by the agency head, except that when the request concerns a member of an agency head, the issue shall be determined by the other members of the agency head.

SECTION 8. A NEW SECTION OF KRS CHAPTER 13 IS CREATED TO READ AS FOLLOWS:

In each adjudicatory proceeding:

(1) Findings of fact shall be based exclusively on the evidence on the record.

(2) Irrelevant, immaterial, or unduly repetitious evidence shall be excluded and the rules of privilege shall be given effect.

(3) The rules of evidence as applied in civil cases shall be followed. When necessary to ascertain facts which cannot otherwise be proved, evidence not admissible under the rules applied in civil cases may be admitted if it is of the type commonly relied upon by reasonably prudent men in the conduct of their affairs. Hearsay evidence may be used for the purpose of supplementing or explaining other evidence, but it shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions.

(4) All testimony of parties and witnesses shall be made under oath, and any part of the evidence may be received by depositions.

(5) The general provisions governing depositions and discovery as set forth in Rules 26.01 to 37.05 of the rules of civil procedure shall be followed.

(6) Any party may conduct such cross-examination as may be required for a full and true disclosure of the facts so long as it is not of an irrelevant, immaterial, or unduly repetitious nature.

(7) Objections to evidentiary offers may be made by any party and shall be noted in the record.

(8) The hearing examiner or agency head may take official notice of facts which are indisputable and of generally recognized technical or scientific facts within the agency's specialized knowledge. The hearing examiner shall notify all parties, either before or during the hearing, or in preliminary reports or otherwise, of any technical or scientific fact so noticed and its source. All parties shall be given an opportunity to contest technical or scientific facts officially noticed.

SECTION 9. A NEW SECTION OF KRS CHAPTER 13 IS CREATED TO READ AS FOLLOWS:

(1) Agencies shall issue subpoenas authorized by statute and the common law upon their own motion or when requested by a party. When a subpoena is disobeyed, any party may apply to the Circuit Court of the district in which the adjudicatory proceeding is held for an order requiring obedience. Failure to comply with an order of the court shall be cause for punishment as a contempt of the court.

(2) Witnesses shall be entitled to compensation as witnesses under KRS 421.010, and each party shall pay the cost of its subpoenas and the compensation of its witnesses.

SECTION 10. A NEW SECTION OF KRS CHAPTER 13 IS CREATED TO READ AS FOLLOWS:

(1) In each adjudicatory proceeding, agencies shall keep a record of the proceedings which shall include:

(a) all notices, pleadings, motions and intermediate rulings;

(b) evidence received and considered;

(c) a statement of matters officially noticed;

(d) questions and offers of proof and rulings thereon;

(e) proposed findings and exemptions;

(f) any decision (including any initial, recommended, or tentative decision) opinion, report, or recommendation made by the hearing examiner presiding at the adjudicatory proceeding;

(g) all requests made to the agency head by the hearing examiner for an extension of time, and the hearing examiner's grounds for such a request;

(h) all decisions made by the agency head in the granting or denial of a request for an extension of time and a brief statement by the agency head stating his grounds for the granting or denial of the hearing examiner's request for an extension of time; and

(i) the official transcript.

(2) The agency shall accurately and completely preserve all testimony in the proceeding, and it shall make a full transcript available to any party, upon request. The agency shall charge a party no more than the actual cost of photocopying, or other means of duplicating, for a copy of the transcript. The agency shall not charge for the cost of recording or transcribing, or other cost.

SECTION 11. A NEW SECTION OF KRS CHAPTER 13 IS CREATED TO READ AS FOLLOWS:

(1) The hearing examiner shall complete and submit to the agency head, no later than sixty (60) days after receiving a copy of the official transcript a written recommendation which shall include his findings of fact, conclusion of law, and recommended disposition of the adjudicatory proceeding, including recommended penalties, if any.

(2) If an extension of time is needed by the hearing examiner to complete and submit his recommendation to the agency head, the hearing examiner shall show good cause to the agency head, in writing, and based upon substantial proof, that an extension of time is needed.

(3) If the agency head, after a showing of good cause, grants the hearing examiner an extension of time, it shall:

(a) not exceed thirty (30) days from the date the extension was granted;

(b) be included in the record of the adjudicatory proceeding.

(4) In making the final order, the agency head shall consider the whole record or such portions of the record as may be cited by the parties.

(5) The agency head may accept the recommendation of the hearing examiner and adopt it as the agency's final order, or he may reject or modify all or part of the recommendation. If the agency head rejects or modifies any part of the recommendation, he shall state with particularity in the final order his reasons for the rejection or modification.

SECTION 12. A NEW SECTION OF KRS CHAPTER 13 IS CREATED TO READ AS FOLLOWS:

(1) The final order in an adjudicatory proceeding shall be in writing and stated in the record. The final order shall include separate statements of findings of fact, conclusions of law, the reasons for the decisions made, and the effective date of the order.

(2) The agency head shall render a final order in an adjudicatory proceeding within ninety (90) days after:

(a) the hearing examiner submits a recommendation to the agency head; or

(b) the agency head has received a copy of the official transcript from a proceeding in which a hearing examiner was not employed.

(3) The agency head shall notify the parties, either personally or by certified mail, of the final order. Unless waived by the party, a copy of the final order shall be delivered or mailed to each party or to his attorney of record.

(4) Nothing in this section shall prevent agency heads from entering final orders in adjudicatory proceedings informally disposed of under subsection (2)(b) of Section 4 of this Act.

SECTION 13. A NEW SECTION OF KRS CHAPTER 13 IS CREATED TO READ AS FOLLOWS:

(1) Any agency may, on petition by any interested person, issue a declaratory order with respect to the applicability to any person, property or state of facts of any regulation, order or statute enforced by the agency.

(2) Petitions for declaratory orders shall be in writing and in the form prescribed by the agency.

(3) A declaratory order shall bind the agency and all parties to the proceedings on the state of facts alleged, and a declaratory order rendered by an agency shall be a defense in subsequent charges against the person who requested the order and who acted in reliance on it in good faith, unless:

(a) material facts were intentionally omitted or misstated by the person in requesting the order; or

(b) the order is altered or set aside by a court upon review under Section 18 of this Act.

(4) Petitions for declaratory orders shall be filed with the head of the agency.

(5) Within twenty (20) days after receiving a petition for a declaratory order, an agency head shall either deny the petition in writing or shall issue a declaratory order. If the agency head denies the petition, he shall notify the petitioner of the reasons for the denial.

SECTION 14. A NEW SECTION OF KRS CHAPTER 13 IS CREATED TO READ AS FOLLOWS:

(1) All hearings in adjudicatory proceedings shall be conducted by either a hearing examiner qualified and appointed pursuant to this section or by an agency head, or a member of an agency head. Final order shall be issued only by an agency head.

(2) Each agency may appoint as many hearing examiners as are necessary to conduct hearings in adjudicatory proceedings of the agency, or may obtain the services of hearing examiners according to Section 15 of this Act. Agencies may utilize hearing examiners employed by other agencies with the consent of the employing agency.

(3) Hearing examiners shall perform no duties inconsistent with their duties as hearing examiners. An agency head or a member of an agency head who conducts a hearing may participate in the formulation of the agency's final order in the adjudicatory proceeding if he has completed all of his duties as hearing examiner.

(4) All hearing examiners shall be included within the classified service to which KRS 18.110 to 18.360 applies, unless they:

(a) occupy positions specifically excluded from the classified service by KRS 18.140;

(b) are part-time employees; or

(c) hold personal service contracts.

(5) In addition to other qualifications for hearing examiners established by statute, hearing examiners shall possess:

(a) a four (4) year degree from an accredited college or university in a field closely related to the work performed by the agency in which he is employed. Two (2) years of work experience in a responsible position in a field closely related to the agency's work may be substituted for each year of college or university training; or

(b) the highest degree of licensure attainable, or its equivalent in training or experience, and five (5) years of work experience in a field closely related to the agency's work, if the agency's work involves the regulation of an occupation or trade.

(6) The Department of Personnel and Personnel Board, in cooperation with each agency, may establish additional qualifications not inconsistent with this Act, which all or certain classes of hearing examiners shall be required to possess.

SECTION 15. A NEW SECTION OF KRS CHAPTER 13 IS CREATED TO READ AS FOLLOWS:

(1) The Executive Department for Finance and Administration may employ one or more hearing examiners for assignment to the individual agencies at their request, for the conduct of adjudicatory proceedings. Nothing in this subsection shall prevent an agency from employing a hearing examiner independent of the Executive Department for Finance and Administration.

(2) The Executive Department for Finance and Administration shall charge each agency a reasonable amount for administrative services provided by subsection (1) of this section.

SECTION 16. A NEW SECTION OF KRS CHAPTER 13 IS CREATED TO READ AS FOLLOWS:

(1) No hearing examiner, member of an agency head or agency head, participating in an adjudicatory proceeding shall communicate off the record any information on the merits of any substantive or procedural issue in a case with any party, representative of a party, or agency employe engaged in advocating, investigating, or prosecuting in connection with the adjudicatory proceeding.

(2) No party, representative of a party, or agency member engaged in advocating, investigating or prosecuting in connection with an adjudicatory proceeding shall communicate off the record any information on the merits of any substantive or procedural issue in the case with any hearing examiner, member of an agency head or agency head participating in the adjudicatory proceeding.

(3) Any communication prohibited by subsections (1) or (2) of this section shall constitute grounds for the reversal or modification of the agency's final order upon judicial review in accordance with Section 18 of this Act.

SECTION 17. A NEW SECTION OF KRS CHAPTER 13 IS CREATED TO READ AS FOLLOWS:

(1) Each agency may promulgate, according to KRS 13.075 through 13.125, regulations not inconsistent with this Act governing the procedures for scheduling and conducting adjudicatory proceedings.

(2) Upon application of any agency, the Administrative Regulations Review Subcommittee may exempt any agency from one or more requirements of this Act when:

(a) The agency head certifies that the requirement would conflict with any provision of federal law or regulation with which the agency must comply, or with any federal law or regulation with which the agency must comply to permit the agency or persons within the Commonwealth to receive federal tax benefits or federal funds or other benefits;

(b) The Administrative Regulations Review Subcommittee finds that conformity with the requirement of this Act from which exemption is sought would be so inconvenient or so impractical as to deny due process and cause undue delay in adjudicatory proceedings.

(3) The Administrative Regulations Review Subcommittee shall not exempt an agency from any requirement of this Act until the agency establishes alternative procedures, by regulation, which insofar as practical shall be consistent with the intent and purpose of this Act.

SECTION 18. A NEW SECTION OF KRS CHAPTER 13 IS CREATED TO READ AS FOLLOWS:

(1) All final orders of the agency are subject to judicial review under this Act.

(2) Proceedings for review shall be instituted by filing a petition in the Franklin Circuit Court or in the circuit court of the county of the aggrieved person's residence within thirty (30) days after the final order of the agency becomes effective. Copies of the petition shall be served upon the agency and all parties of record.

(3) The filing of the petition does not itself stay enforcement of the agency's final order. The agency may grant, or for good cause the reviewing court may order, a stay upon appropriate terms.

(4) Within twenty (20) days after the service of the petition, or within further time allowed by the court, the agency shall transmit to the reviewing court the original or a certified copy of the entire record of the proceeding under review. By stipulation of all parties to the review proceedings the record may be shortened. A party unreasonably refusing to stipulate to limit the record may be taxed by the court for the additional costs. The court may require or permit subsequent correction or additions to the record.

(5) If, before the date set for hearing, application is made to the court for leave to present additional evidence, and it is shown to the satisfaction of the court that the additional evidence is material and that there were good reasons for failure to present it at the adjudicatory proceeding, the court may order that the additional evidence be taken before the agency upon conditions determined by the court. The agency may modify its findings and final order by reason of the additional evidence and shall file that evidence and any modifications, new findings, or orders with the reviewing court.

(6) The review shall be conducted by the court without a jury and shall be confined to the record. The court, upon request, may hear oral argument and receive written briefs.

(7) The court shall not substitute its judgment for that of the agency as to the weight of the evidence on questions of fact. The court may affirm the final order of the agency or remand the case for further proceedings. The court may enjoin, suspend, reverse or modify the final order if substantial rights of the appellant have been prejudiced because the agency's actions, findings, inferences, conclusions, or final orders are:

(a) in violation of constitutional or statutory provisions;

(b) in excess of the statutory authority of the agency;

(c) made upon unlawful procedure;

(d) affected by other error of law;

(e) clearly without support of substantial evidence on the whole record;

(f) arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion;

(g) based on an ex parte communication prohibited in Section 16 of this Act;

(h) affected by a failure of the person conducting a proceeding to be disqualified pursuant to Section 7(2) of this Act.

SECTION 19. A NEW SECTION OF KRS CHAPTER 13 IS CREATED TO READ AS FOLLOWS:

Any aggrieved party may obtain a review of any final judgment of the circuit court under this Act by appeal to the Court of Appeals. The appeal shall be taken as in other civil cases.

SECTION 20. A NEW SECTION OF KRS CHAPTER 13 IS CREATED TO READ AS FOLLOWS:

The Kentucky Rules of Civil Procedure shall apply to all aspects of an adjudicatory proceeding not otherwise stated in this Act.

SECTION 21. A NEW SECTION OF KRS CHAPTER 13 IS CREATED TO READ AS FOLLOWS:

The power vested in every agency to adopt adjudicatory procedures shall be uniform and shall be confined to the direct implementation of the functions and duties assigned to an agency by the General Assembly, or by executive order. All grants of authority to adopt adjudicatory procedures inconsistent with this provision are hereby repealed.

SECTION 22. A NEW SECTION OF KRS CHAPTER 13 IS CREATED TO READ AS FOLLOWS:

Any person who engages in a communication prohibited by Section 16(1)(2), shall, for each communication be fined not less than ten ($10) dollars nor more than one hundred ($100) dollars.

Section 23. KRS 15.330 is amended to read as follows:

The Council is vested with the following functions and powers:

(1) To prescribe standards for the approval and continuation of approval of schools at which law enforcement training courses required under KRS 15.310 to 15.992 shall be conducted, including but not limited to minimum standards for facilities, faculty, curriculum, and hours of attendance related thereto;

(2) To prescribe minimum qualifications for instructors at such schools, except that institutions of higher education shall be exempt from council requirements;

(3) To prescribe qualifications for attendance and conditions for expulsion from such schools;

(4) To approve, to issue and to revoke for cause *after notice and hearing in accordance with this Act* certificates to schools and instructors as having met *or not met* requirements under KRS 15.310 to 15.992;

(5) To approve and to issue certificates of approval of law enforcement officers and other persons as having met requirements under KRS 15.310 to 15.992;

(6) To inspect and evaluate schools at any time and to require of schools, instructors and persons approved or to be approved under the provisions of KRS 15.310 to 15.992, any information or documents;

(7) To make a continuing study of law enforcement training standards and upon request, to furnish information relating to standards for recruitment, employment, promotion, organization, management and operation of any law enforcement agency in Kentucky;

(8) To conduct continuing research on criminal law and criminal justice subjects related to law enforcement training;

(9) To recommend reasonable rules and regulations to the Secretary to accomplish the purposes of KRS 15.310 to 15.992;

(10) To adopt bylaws for the conduct of its business not otherwise provided for.

Section 24. KRS 16.140 is amended to read as follows:

(1) With the exceptions hereinafter specified, no officer of the bureau shall be removed, suspended, reduced in grade or pay for any reason except inefficiency, misconduct, insubordination or violation of law or of any rule or regulation promulgated by the commissioner. Any person may prefer charges in writing against any officer, which must be filed in the office of the commissioner. The charges must be signed by the person making the same, and must set out with clarity and distinction each and every charge. The commissioner, whenever probable cause appears, shall prefer charges against any officer whom he believes to have been guilty of conduct justifying his removal or punishment, in the interest of public order. Within five (5) days after the filing of charges, the commissioner shall deliver a copy thereof, personally, by registered mail or by certified mail, return receipt requested to the officer offending. Within five (5) days after the receipt thereof, the officer may demand public hearing, or may admit the truth of the charges in whole or in part. If the officer admits the truthfulness of the charges, the commissioner shall remove, suspend, reduce in rank or pay the officer so offending, in proportion to the seriousness of the charges.

(2) If the charges are denied and the officer demands a hearing within the time above specified, he must make his demand known to the commissioner in writing. After demand for hearing has been made, the commissioner within twenty (20) days from the date thereof, shall arrange for a public hearing *to be scheduled and conducted in accordance with this Act* before a trial board to be constituted in the manner hereinafter provided. The officer defendant shall be given not less than five (5) days' notice of the time, place and hour of the hearing *in accordance with this Act.*

(3) Upon the hearing, all charges shall be considered traversed and put in issue, and the trial shall be confined and limited to the issues presented by the written charges. The trial board hearing the charges may summon and compel the attendance of witnesses at all hearings or sittings, by subpoena issued by the commissioner and served upon any witness by any sheriff or other person authorized by law to serve process. If any person fails to comply with any lawful order of the bureau or with process, or if any witness refuses to testify concerning any matter in which he may lawfully be interrogated, any circuit court judge, upon application of the trial board, or the commissioner, *in accordance with this Act* may compel obedience by proceedings for contempt as in the case of disobedience of a subpoena issued from the circuit court or a refusal to testify therein.

(4) The officer defendant shall have the right to subpoena in his behalf any witnesses he may desire, upon furnishing their names to the trial board or to the commissioner. The officer shall likewise have the right to appear in person and by counsel.

(5) All charges against the officer defendant, together with all proceedings before the trial board, shall be transcribed and reduced to writing and a permanent record kept thereof.

(4) (6) In any instance where the commissioner has probable cause to believe that an officer has been guilty of conduct justifying his removal or punishment, he may immediately suspend the officer from duty, or from both pay and duty, pending trial, and the officer shall not be again placed on duty or allowed pay thereafter until a determination of the charges under this section.

(5) (7) The trial board, after hearing the charges, shall fix the punishment of any officer found guilty of any one (1) or more charges, by reprimand or suspension for any length of time not to exceed six (6) months, or by reducing the grade if the officer's classification warrants same, or by combining any two (2) or more of the punishments, or by reducing the monthly salary of the officer by not more than twenty per cent (20%) for not more than six (6) months, or by removing or dismissing from the service of the bureau any officer so found guilty.

(6) (8) For the purpose of hearing charges against any officer, as hereinabove set forth, there is created a trial board; which shall consist of the commissioner and of a panel of ten (10) officers of the bureau appointed by the commissioner. The commissioner shall designate from the panel not less than three (3) nor more than seven (7) members thereof to hear charges against any officer in the manner and under the procedure above set forth. The commissioner may promulgate reasonable rules and regulations governing the procedure before the trial board, which *are consistent with this Act and* do not conflict with this section. The panel or trial board shall be a continuing body, and the officers designated shall serve thereon in addition to their other duties and without any increase in compensation, except they may be reimbursed for meals, lodging and traveling expenses incurred while in the performance of their official duties as members of the board. Any officer defendant may for cause challenge the right of any member of the board in the trial of any action against him, and if the remaining members of the board find that the challenge is justifiable, the member of the board shall be excused from hearing the charges, and another member substituted in lieu thereof.

(7) (9) No officer is entitled to a hearing as provided in this section, unless his suspension is for more than twenty (20) days, or his pay reduced more than ten per cent (10%); but if the officer receives more than twenty (20) days suspension or reduction in salary of more than ten per cent (10%) within a period of one (1) year, he shall have the right to such hearing in the manner above provided.

(8) (10) Any civilian employe may be discharged, suspended or reduced in pay at any time by the commissioner, pursuant to KRS chapter 18.

(9) (11) Any officer appointed to the bureau shall be considered on probation for a period of one (1) year from and after the date of his appointment, and during that period may be discharged or suspended or reduced in rank or pay, with or without cause, by the commissioner. The rights conferred upon an officer for a hearing, as provided in this section, shall not accrue until such officer has been employed by the bureau for a period of one (1) year or more.

Section 25. KRS 16.150 is amended to read as follows:

(1) Any officer of the department who shall be found guilty by the trial board of any charge as provided in KRS 16.140 shall have the right , within ten (10) days from the date of judgment of the trial board, to appeal to the Franklin Circuit Court *in accordance with this Act,* provided the punishment be a suspension of more than twenty (20) days or his pay be reduced more than ten per cent (10%), or if he is reduced in grade, if his classification so warrants, or is removed or dismissed from the department; Provided, however, the enforcement of the judgment of the trial board upon said charges shall not be suspended during said appeal.

(2) To perfect said appeal within the time specified, such officer shall file in the office of the clerk of the Franklin Circuit Court a copy of the order, of all the evidence heard and of all the steps taken by the trial board relative to such charges, but shall first post a bond to secure the cost of the action in a lump sum to be approved by the circuit clerk, with corporate surety approved by the department of insurance as to solvency and responsibility and authorized to transact business in this state, or he may post a cash bond. The members of the trial board and the commissioner shall be necessary parties to such appeal. The circuit clerk shall docket the case as though it were a petition in equity and shall immediately issue a summons for the appellee. The summons shall be returnable in the same manner as in equity cases. Service of summons upon the commissioner or acting commissioner shall be deemed service upon the board.

(3) Such action shall be set down for trial as soon as possible, and the hearing thereof shall be expedited in the same manner as a declaratory judgment suit.

(4) No new or additional evidence *may* shall be introduced in the Franklin Circuit Court, except as to fraud or misconduct of some party engaged in the administration of KRS 16.010 to 16.170, or one (1) who is a member of the trial board, but the court shall otherwise hear the case upon the record as attested by the board, and in all respects dispose of the appeal in a summary manner. Its review shall be limited to determining whether or not (a) the board acted without or in excess of its powers; (b) the order appealed from was procured by fraud; (c) if questions of fact are in issue, whether or not any substantial evidence supports the order appealed from. After such a hearing, the court shall enter a judgment sustaining or setting aside the order of the trial board appealed from. The cost of the action shall follow the judgment of the court.

(5) Any party aggrieved by a judgment of the Franklin Circuit Court may appeal to the Court of Appeals in the manner provided in the Rules of Civil Procedure, but such appeal shall be docketed within 60 days from the entry of judgment; unless the time be extended by the circuit court, but in no event beyond 120 days from the entry of judgment. The appeal may be advanced for immediate hearing and submission.

Section 26. KRS 18.170 is amended to read as follows:

It shall be the duty of the personnel board to:

(1) Adopt comprehensive rules consistent with the provisions of KRS 18.110 to 18.360, and with federal standards for the administration of a personnel system in the agencies of the state government receiving federal grants;

(2) Present to the governor, through the commissioner of the executive department for finance and administration, for his adoption such classification and compensation plans for the state service, provision for vacation, sick and special leave and hours of work, together with rules for their administration, as recommended by the commissioner of personnel and the board after a thorough survey of the personnel and departmental organizations included in such plan or plans;

(3) Make investigations, either on petition of a citizen, taxpayer, interested party, or on its own motion, concerning the enforcement and effect of KRS 18.110 to 18.360, and to require observance of its provisions and the rules and regulations made pursuant thereto; and to make such investigation as may be requested by the general assembly or the governor and to report thereon;

(4) Hear appeals from applicants for positions for which examinations are being or have been conducted, from eligibles on examination registers, and from officers or employes serving under the personnel system created by KRS 18.110 to 18.360, as hereinafter provided, subject to the procedural rules which the board may adopt pursuant to *this Act and* the provisions of this section;

(5) Promote public understanding of merit principles in government service;

(6) Make annual reports to the governor and biennial reports to the general assembly, which reports shall be a public record freely available to those persons interested in obtaining a copy;

(7) Advise the governor and the commissioner of personnel with respect to the administration of the personnel system created by KRS 18.110 to 18.360;

(8) Consider and act on such matters as may be referred to the board by the commissioner of personnel; and

(9) Represent the public interest in the improvement of personnel administration in the state service, and advise and assist the commissioner of personnel in fostering the interest of institutions of learning and of civic, professional, and employe organizations in the improvement of personnel standards in the state service.

Section 27. KRS 40.090 is amended to read as follows:

A hearing ordered by the administrator shall be *scheduled and* conducted by a single person designated by the administrator *in accordance with the provisions of this Act.* Formalities of judicial procedure and proof may be waived. No stenographic transcript of the proceedings shall be made except when specifically authorized by the administrator; and in the absence of such authorization the hearing officer shall submit to the administrator his written summary of the proceedings. There shall be no right to written or oral argument; but the administrator may, in his discretion, authorize either.

Section 28. KRS 40.120 is amended to read as follows:

(1) If a claim is disapproved, the administrator shall send a notice of such decision to the claimant by mail at the address shown in the application. The notice shall be in such form as the administrator may determine, shall contain a designation of the reason for disapproval, shall inform the claimant of his or her right to seek review, shall have attached such form of request for review as the administrator may prescribe, and shall give information as to procedure for review.

(2) Application for review of the administrator's disapproval shall be made only on the forms prescribed and furnished by the administrator; and shall be received in the office of the administrator by the closing hour in the thirtieth day after the day upon which the notice of the disapproval is *received* mailed by the administrator , or be forever barred.

(3) Upon receiving an application for review, the administrator shall transmit the same, together with the original application and all papers in the case, to the board of review, hereinafter created.

(4) The board of review shall promptly consider the *case in accordance with this Act* same evidence which was available to the administrator , and shall promptly enter in the case file its *final order* decision either finally affirming the administrator's decision, or finally determining the claim and the amount thereof.

(5) The board of review shall *serve* send a notice of its *final order in accordance with this Act* decision to the claimant by registered mail or by certified mail, return receipt requested , and shall return the case file to the administrator. The decision of the board of review shall be a final determination of the claim shown in the application. There shall be no right of recourse on the part of the claimant or the administrator in any court.

Section 29. KRS 44.070 is amended to read as follows:

(1) A board of claims, composed of the members of the workmen's compensation board as hereinafter provided, is created and vested with full power and authority to investigate, *give notice and* hear proof *at hearings conducted in accordance with this Act,* and to compensate persons for damages sustained to either person or property as a proximate result of negligence on the part of the commonwealth, any of its departments or agencies, or any of its officers, agents or employes while acting within the scope of their employment by the commonwealth or any of its departments or agencies; Provided, however, regardless of any provision of law to the contrary, the commonwealth, its departments and agencies, and its officers, agents and employes, while acting within the scope of their employment by the commonwealth or any of its departments or agencies, shall not be liable for pain or suffering, and compensation shall not be allowed, awarded, or paid for pain or suffering. Except as hereinafter provided the board shall be independent of all agencies and departments of the commonwealth except as provided in KRS 44.070 to 44.160.

(2) The board shall be composed of five (5) attorneys who are members of the workmen's compensation board and who have been appointed and hold office under the provisions of KRS 342.215 and 342.220. The members shall not be entitled to additional compensation for their services on the board of claims.

(3) The governor shall designate a member of the board to serve as chairman for a term of four (4) years. Any vacancy in the chairmanship shall be filled by the governor. No member shall, at the same time, serve as chairman of the workmen's compensation board and as chairman of the board of claims.

(4) The executive secretary, referees and employes of the workmen's compensation board, without additional compensation, shall be ex-officio the executive secretary, referees and employes respectively of the board of claims.

(5) Regardless of any provision of law to the contrary, the jurisdiction of the board is exclusive, and a single claim for the recovery of money or a single award of money shall not exceed twenty thousand dollars ($20,000), exclusive of interest and costs.

Section 30. KRS 44.080 is amended to read as follows:

The board shall hold regular sessions at Frankfort, Kentucky, in January, May and September, beginning on a day to be fixed by the board, and such special sessions at such places as it deems necessary to expedite the business of the board. The board shall establish rules for its government and for the regulation of the method of pleading and practice before it *in accordance with this Act*. Any member thereof may subpoena witnesses, administer or cause to be administered oaths.

Section 31. KRS 44.086 is amended to read as follows:

(1) The board of claims, or any of its members, or any of its *duly appointed hearing examiners* referees , shall *give notice and* hear the parties at issue and their representatives and witnesses *in accordance with this Act* and shall determine the dispute. The award or order shall be made within thirty (30) days after final submission, except in cases involving large or complicated records or unusual questions of law, and shall be made within ninety (90) days after final submission in any event . The order or award , together with a statement of the findings of fact, rulings of law and other matters pertinent to the question at issue shall be filed with the record of proceedings and a copy of the order or award shall immediately be sent to the parties in dispute *in the form and manner prescribed by this Act*.

(2) If an application for review is made to the board within fourteen (14) days from the date of the order or award, the fll board, if the first hearing was not held before the full board, shall, as soon as practicable, review the evidence, or, if deemed advisable, hear the parties at issue, their representatives and witnesses, and shall make an order or award and file it as specified in subsection (1) above.

Section 32. KRS 44.140 is amended to read as follows:

(1) Appeals may be taken from all awards of the board where the amount in controversy, exclusive of interest and costs, is more than one hundred dollars ($100). Appeals shall be taken to the circuit court of the county wherein the hearing was conducted, Provided, however, That an appeal involving a nonresident claimant may be taken to the Franklin Circuit Court with the approval of the board. Appeals shall be taken within thirty (30) days *after the board's award or order becomes final* from the rendition of the award , and the method of appeals shall *be in accordance with this Act* follow as nearly as may be the Rules of Civil Procedure, except the commonwealth shall not be required to execute bond .

(2) On appeal no new evidence may be introduced, except as to fraud or misconduct of some person engaged in the hearing before the board. The court sitting without a jury shall hear the cause upon the record before it, and dispose of the appeal in a summary manner, being limited to determining: Whether or not the board acted without or in excess of its powers; the award was procured by fraud; the award is not in conformity to the provisions of KRS 44.070 to 44.160; and whether the findings of fact support the award. The court shall enter its findings on the order book as a judgment of the court, and such judgment shall have the same effect and be enforceable as any other judgment of the court in civil causes.

Section 33. KRS 61.760 is amended to read as follows:

(1) The Registry of Election Finance shall appoint such employes as are necessary to provide the service to carry out all purposes of KRS 61.710 to 61.780, including *hearing examiners authorized or required by this Act and* an attorney or attorneys on a full or part-time basis.

(2) The Registry shall adopt such regulations, official forms and perform such duties as are necessary to implement the provisions of KRS 61.710 to 61.780. The Registry is authorized and empowered to:

(a) Develop prescribed forms for the making of the required reports;

(b) Prepare and publish a manual for the individuals subject to KRS 61.710 to 61.780 describing the requirements of the law, including uniform methods of reporting;

(c) Permit copying or photocopying of any reports as requested by any person;

(d) Ascertain whether any individual subject to the requirements of KRS 61.710 to 61.780 has failed to file a report or has filed a defective report, give notice to delinquents of failure to file the report, as provided in KRS 61.740;

(e) Hold public hearings *in accordance with this Act*, investigate any violations in reporting, and issue subpoenas for the production of documents and attendance of witnesses.

Section 34. KRS 74.455 is amended to read as follows:

(1) From and after the creation and establishment of a water district and the appointment of water commissioners to manage the affairs of the district, and following the acquisition or construction by any duly created and established water district of a public water system, and the consequent establishment of regulatory jurisdiction over such water district by the public service commission of Kentucky, the public service commission may remove any water commissioner from his office for good cause, including, inter alia, incompetency, neglect of duty, gross immorality, or nonfeasance, misfeasance, or malfeasance in office,

including without limiting the generality of the foregoing, failure to comply with rules, regulations, and orders issued by the public service commission.

(2) No such order of removal with respect to any water commissioner shall be entered by the public service commission until a public hearing *in accordance with this Act* on the merits with reference to such matter has been held by the commission , at which hearing the water commissioner proposed to be removed from office shall be afforded the opportunity to appear, either pro se, or by counsel and file briefs, memoranda and motions, cross-examine witnesses, examine exhibits, and present evidence, both orally and in writing . All such orders of removal entered by the public service commission shall be final and shall not be subject to appeal *in accordance with this Act.* Any water commissioner may waive such public hearing, in which case an order on removal may be forthwith entered by the commission.

(3) Using procedures of this section the public service commission may also request the removal of directors, trustees or other governing persons of water associations in like manner.

Section 35. KRS 131.320 is amended to read as follows:

(1) Each member of the Kentucky board of tax appeals shall be a person at least thirty-five (35) years of age. One (1) member shall be an attorney with the qualifications required of candidates for circuit judge. The other two (2) members shall be persons with general business background.

(2) The governor may remove any member of the board for cause after giving him *notice* a copy of the charges against him and an opportunity *for hearing to be scheduled and conducted in accordance with this Act* of being publicly heard in person or by counsel in his own defense upon not less than ten (10) days notice . If a member of the board is removed, the governor shall file in the office of the secretary of state a complete statement of all charges and his findings therein, and a complete record of the proceedings. Any member of the board so removed may *seek judicial review in accordance with this Act* bring action in the proper court to determine whether or not he was legally removed in accordance with this section.

(3) The members of the board shall receive an annual salary to be fixed by the governor.

(4) The principal office of the board shall be at Frankfort, Kentucky. A majority of the board may hold hearings outside of Frankfort or as provided in subsection (5) of KRS 131.355, with a view to securing opportunity to taxpayers to appear before it with as little inconvenience and expense as practicable. The office of the board shall be open during regular working hours for the conduct of its business.

Section 36. KRS 131.345 is amended to read as follows:

Appeals to the Kentucky board of tax appeals shall be in accordance with rules prescribed by the board. All proceedings before the board shall be de novo *and be conducted in accordance with this Act.* Findings by the board shall be restricted to those issues raised by the parties to the appeal. In the event the board finds that other issues are necessary to a full determination of the controversy, it may remand the whole proceeding to the agency from which the appeal was prosecuted for further determination. The parties may stipulate to the determination of such other issues without remand.

Section 37. KRS 131.350 is amended to read as follows:

(1) Any member of the Kentucky board of tax appeals, on the request of any party to the proceedings before it or his attorney, shall issue subpoenas requiring the attendance of witnesses and the giving of testimony and subpoena duces tecum requiring the production of any returns, books, papers, documents, correspondence, and other evidence pertaining to the matter under inquiry in accordance with *this Act* the Rules of Civil Procedure .

(2) Any party to a proceeding before the board or his attorney may cause depositions to be taken of witnesses who reside within or without the state in the manner prescribed under *this Act* the Rules of Civil Procedure .

(3) If any person fails or refuses to obey any lawful process of the board it may apply ex parte to the Franklin Circuit Court or the circuit court of the county in which it is sitting for an order of contempt to be enforced as a contempt of court.

(4) Any member or any employe of the board may be designated in writing by the chairman to administer oaths.

Section 38. KRS 131.355 is amended to read as follows:

(1) Hearings before the Kentucky Board of Tax Appeals shall be public.

(2) All proceedings before the board shall be officially reported *in accordance with this Act* and all records of proceedings shall be public records.

(3) Expenses of reporting hearings shall be paid by the state from the appropriation of the board. If any party desires to have the evidence at a hearing transcribed, he shall cause the reporter to prepare one original transcript to be filed with the board and such additional copies as said party may desire. The party requesting a transcript of evidence shall pay for the same in accordance with *this Act* the rates established by the Kentucky Revised Statutes .

(4) The board may contract for the reporting of its proceedings. It may fix the terms and conditions under which transcripts will be supplied by the reporter to the board and other persons and agencies.

(5) All appeals to the Kentucky Board of Tax Appeals shall be heard by the full board, provided that one member may be authorized to hear an individual appeal by an order entered on the records of the board. Such order shall be signed by all members of the board. The decision in any appeal heard by a single member shall be made and entered by a majority of the board.

Section 39. KRS 131.360 is amended to read as follows:

The Kentucky board of tax appeals shall make written findings on which its orders, decisions, or determinations are based *and its final order shall be made in accordance with this Act.* The board may affirm, reverse, modify or remand the order of an agency appealed from , and in case of modification, reversal, or remand, it shall state why the original order is erroneous . In the case of any appeal, any taxes, interest or penalty paid but found by the board to be in excess of that legally due shall be ordered refunded to the taxpayer.

Section 40. KRS 131.370 is amended to read as follows:

(1) Any party aggrieved by any final order, decision, or determination of the Kentucky board of tax appeals, except on appeals from a county board of supervisors, may within thirty (30) days after such order, decision, or determination becomes final file a petition *for review in accordance with this Act* of appeal on any question of law to the Franklin Circuit Court or to the circuit court of the county in which the party aggrieved resides or conducts his place of business. Any such final orders entered on the rulings of a county board of supervisors may be appealed in like manner to the circuit court of the county in which the appeal originated. All parties to the proceedings before the board of tax appeals shall be made parties to the proceedings on appeal. A copy of the petition of appeal shall be filed with the board and all other parties against whom the appeal is prosecuted.

(2) The petition shall state fully the grounds upon which a review is sought, and assign all errors relied on. Summons shall issue upon the petition directing the adverse party to file answer within twenty (20) days after service thereof and directing the board to send its entire original record, properly bound, to the clerk of the circuit court, after certifying that such record is its entire original record, which shall be filed by the clerk of the circuit court and such record shall then become and be considered by the circuit court on the review.

(3) No new or additional evidence may be introduced in the circuit court except as to the fraud or misconduct of some person engaged in the administration of the revenue laws and affecting the order, ruling or award, but the court shall otherwise hear the cause upon the record as certified by the board and shall dispose of the cause in summary manner, its review being limited to determining whether or not:

(a) The board acted without or in excess of its powers;
(b) The order, decision, or award was procured by fraud;
(c) The order, decision, or award is not in conformity to the law; and
(d) If findings of fact are in issue, whether such findings of fact support the order, decision or award.

(4) The court shall enter judgment affirming, modifying, or remanding the order in its discretion. The court may, before judgment, upon the showing of sufficient cause, remand the entire matter to the board for further consideration.

(2) (5) Any party may appeal to the Court of Appeals as provided by the Rules of Civil Procedure.

Section 41. KRS 138.195 is amended to read as follows:

(1) No person other than a manufacturer shall acquire cigarettes in this state on which the Kentucky cigarette tax has not been paid, nor act as a resident wholesaler, nonresident wholesaler, vending machine operator, sub-jobber, transporter or unclassified acquirer of such cigarettes without first obtaining a license from the department as set out in this section.

(2) Each resident wholesaler shall secure a separate license for each place of business at which cigarette tax evidence is affixed or at which cigarettes on which the Kentucky cigarette tax has not been paid are received. Each nonresident wholesaler shall secure a separate license for each place of business at which evidence of Kentucky cigarette tax is affixed or from where Kentucky cigarette tax is reported and paid. Such a license or licenses shall be secured on or before July 1 of each year, and each licensee shall pay the sum of twenty-five dollars ($25.00) for each such year or portion thereof for which such license is secured.

(3) Each sub-jobber shall secure a separate license for each place of business from which Kentucky tax-paid cigarettes are made available to retailers, whether such place of business is located within or without this state. Such license or licenses shall be secured on or before July 1 of each year, and each licensee shall pay the sum of twenty-five dollars ($25.00) for each such year or portion thereof for which such license is secured.

(4) Each vending machine operator shall secure a license for the privilege of dispensing Kentucky tax-paid cigarettes by vending machines. Such license shall be secured on or before July 1 of each year, and each licensee shall pay the sum of five dollars ($5.00) for each year or portion thereof for which such license is secured. No vending machine shall be operated within this commonwealth without having prominently affixed thereto the name of its operator, together with the license number assigned to such operator by the department. The department shall prescribe by regulation the manner in which the information shall be affixed to the vending machine.

(5) Each transporter shall secure a license for the privilege of transporting cigarettes within this state. Such license shall be secured on or before July 1 of each year, and each licensee shall pay the sum of five dollars ($5.00) for each such year or portion thereof for which such license is secured. No transporter shall transport any cigarettes without having in actual possession an invoice or bill of lading therefor, showing the name and address of the consignor and consignee, the date acquired by the transporter, the name and address of the transporter, the quantity of cigarettes being transported, together with the license number assigned to such transporter by the department.

(6) Each unclassified acquirer shall secure a license for the privilege of acquiring cigarettes on which the Kentucky cigarette tax has not been paid. Such license shall be secured on or before July 1 of each year, and each licensee shall pay the sum of five dollars ($5.00) for each such year or portion thereof for which such license is secured.

(7) Nothing in KRS 138.130 to 138.205 shall be construed to prevent the department from requiring a person to purchase more than one (1) license if the nature of such person's business is so diversified as to justify such requirement.

(8) The department may by regulation require any person licensed under the provisions of this section to supply such information concerning his business, sales or any privilege exercised, as is deemed reasonably necessary for the regulation of such licensees, and to protect the revenues of the state. Failure on the part of such licensee to comply with the provisions of KRS 138.130 to 138.205 or any regulations promulgated thereunder, or to permit an inspection of premises, machines or vehicles by an authorized agent of the department at any reasonable time shall be grounds for the revocation of any license issued by the department, after due notice and a hearing by the department *in accordance with this Act.* The commissioner of revenue may assign a time and place for such hearing and may appoint *an examiner* a conferee who shall conduct a hearing, receive evidence and hear arguments. Such *examiner* conferee shall thereupon file a report with the commissioner together with a recommendation as to the revocation of such license. From any revocation made by the commissioner of revenue on such report, the licensee may prosecute an appeal to the Kentucky board of tax appeals as provided by law. Any person whose license has been revoked for the wilful violation of any provision of KRS 138.130 to 138.205 shall not be entitled to any license provided for in this section, or have any interest in any such license, either disclosed or undisclosed, either as an individual, partnership, corporation or otherwise, for a period of one (1) year after such revocation.

(9) No license issued pursuant to the provisions of this section shall be transferable or negotiable.

(10) Every manufacturer located or doing business in this state shall keep written records of all shipments of cigarettes to persons within this state, and shall submit reports of such shipments as the department may require by regulation.

(11) No person licensed under this section except nonresident wholesalers shall either sell to or purchase from any other such licensee untax-paid cigarettes.

Section 42. KRS 138.320 is amended to read as follows:

(1) To procure the license required by KRS 138.310, every dealer or transporter so required shall file with the department of revenue an application under oath or affirmation, in such form and containing such information as the department may deem necessary.

(2) If the dealer or transporter is a corporation organized under the laws of another state, it shall file with its application a certified copy of the certificate or license issued by the secretary of state of this state showing that the corporation is authorized to transact business in this state.

(3) At the time of filing application for a license, a bond of the character stipulated and in the amount provided for in KRS 138.330 shall be filed with the department. No license shall be issued upon any application unless accompanied by this bond.

(4) If application for such a license is filed by any person whose license has at any time previously been canceled for cause by the department, or if the department is of the opinion that the application is not filed in good faith, or that the application is filed by some person as a subterfuge for the real person in interest whose license or registration has previously been canceled for cause by the department, the department may, after a hearing *in accordance with this Act,* of which the applicant has been given five (5) days' notice in writing, and in which the applicant shall have the right to appear in person or by counsel and present testimony, refuse to issue a license to that person.

(5) The application in proper form having been accepted for filing, and the bond having been accepted and approved, the department shall issue to the applicant a license, subject to cancellation as provided by KRS 138.340. The license shall not be assignable, and shall be valid only for the person in whose name it is issued, and shall be displayed conspicuously in the principal place of business of the dealer in this state.

(6) The department shall keep and file all applications and bonds, with an alphabetical index thereof, together with a record of all licensed dealers or transporters. The department shall publish and keep currently up to date a list of licensed dealers and transporters, and transmit a copy of list and all revisions thereof to all licensed dealers and transporters.

Section 43. KRS 138.330 is amended to read as follows:

(1) Every dealer or transporter required to be licensed under KRS 138.310 shall file with the department of revenue a bond, issued by a corporation authorized to do surety business in Kentucky, in an amount not to exceed three (3) months' estimated liability as computed by the department or five thousand dollars ($5,000) whichever is greater, or in the case of a new licensee in the minimum amount of five thousand dollars ($5,000) until such time as an estimated three (3) months' liability can be established, provided that the maximum amount of any such bond may be reduced to an amount sufficient in the opinion of the department, considering the financial rating and reputation of the company, to insure payment to the department of the amount of tax, penalties and interest for which the dealer or transporter may become liable. The bond shall be on a form and with a surety approved by the department. The dealer or transporter shall be the principal obligor and the state the obligee. The bond shall be conditioned upon the prompt filing of true reports by the dealer and transporter and the payment by the dealer to the state treasurer of all gasoline excise taxes now or hereafter imposed by the state, together with all penalties and interest thereon, and generally upon faithful compliance with the provisions of KRS 138.210 to 138.340.

(2) If liability upon the bond is discharged or reduced, whether by judgment rendered, payment made or otherwise, or if in the opinion of the department any surety on the bond has become unsatisfactory or unacceptable, the department may require the licensee to file a new bond with satisfactory sureties in the same amount, failing which the department shall forthwith cancel the license of such licensee. If a new bond is furnished as provided above, the department shall cancel and surrender the bond for which the new bond is substituted.

(3) If upon hearing *in accordance with this Act,* of which the licensee shall be given five (5) days' notice in writing, the department decides that the amount of the existing bond is insufficient to insure payment to the state of the amount of tax, penalties and interest for which the licensee is or may become liable, said licensee shall forthwith, upon the written demand of the department, file an additional bond in the same manner and form with a surety thereon approved by the department, in any amount determined by the department to be necessary, failing which the department shall forthwith cancel the license of the licensee.

(4) Any surety on a bond furnished as required by this section shall be released from all liability to the state accruing on such bond after the expiration of sixty (60) days from the date upon which the surety has lodged with the department a written request to be released, but this request shall not operate to release the surety from any liability already accrued or which shall accrue before the expiration of the sixty (60) day period. The department shall promptly, upon receipt of such request, notify the licensee who furnished the bond, and unless said licensee, before the expiration of the sixty (60) day period, files with the department a new bond with a surety satisfactory to the department in the amount and form hereinbefore provided, the department shall forthwith cancel the license of the licensee. If approved new bond is furnished the department shall cancel and surrender the bond for which the new bond is substituted.

Section 44. KRS 138.340 is amended to read as follows:

(1) If any dealer or transporter required to be licensed under KRS 138.310 files a false monthly report of the data or information required by KRS 138.220 to 138.280, or fails, refuses or neglects to file the monthly report required by those sections, even though no tax is due, or to pay the full amount of tax as required by those sections, or fails to meet the qualifications of a dealer as set out in KRS 138.210 (2), or violates any other provision of this chapter, said dealer or transporter may be cited by the department of revenue to show cause at a public hearing before the Kentucky board of tax appeals why his license should not be revoked. *The notice given for and conduct of such hearing shall be as provided in KRS Chapter 131.* Such licensee shall be notified by registered letter or summons. The letter or summons shall apprise the licensee of the charge or charges made against him and he shall have a reasonable opportunity to be heard before his license may be revoked. The summons may be served in the same manner and by the same officers or persons as provided by the Rules of Civil Procedure, or it may be served in said manner by an employe of the department of revenue. The hearing shall be set at least five (5) days after the summons is served or the letter delivered. Any aggrieved licensee may appeal from an order of revocation of the Kentucky board of tax appeals as provided by *KRS Chapter 131* law, subject to the condition that the licensee has made bond sufficient in the opinion of the department of revenue to protect the commonwealth from loss of revenue .

(2) The department is hereby given the power to cancel the license upon request in writing from licensee such cancellation to become effective sixty (60) days from the date of receipt of the request. But no license shall be canceled upon the request of any licensee until and unless said licensee, prior to the date of such cancellation, pays to the state all excise taxes payable under the laws of the state together with any and all penalties and fines accruing by reason of any failure on the part of such licensee to make accurate reports as required or pay such taxes and penalties.

Section 45. KRS 138.355 is amended to read as follows:

If the department reasonably believes that any dealer or refund permit holder has been guilty of a violation of KRS 138.343 to 138.355, which would subject the dealer or permit holder to a suspension or revocation of his license or permit under the provisions of subsections (2), (3) or (4) of KRS 138.354, said dealer or permit holder may be cited by the department to show cause at a public hearing before the department of revenue why his license or permit should not be suspended or revoked. The dealer or refund permit holder shall be notified *in accordance with this Act* by registered letter. The letter shall inform the dealer or refund permit holder of the charge or charges made against him and he shall have a reasonable opportunity to be heard before his license or permit may be revoked or suspended. The hearing shall be set *and conducted in accordance with this Act* at least five (5) days after the receipt of the letter . Any aggrieved dealer or refund permit holder may appeal any order entered to the Kentucky board of tax appeals as provided by law , subject to the condition that he make bond sufficient in the opinion of the department to protect the commonwealth from loss of revenue .

Section 46. KRS 138.550 is amended to read as follows:

In addition to all other penalties provided in KRS 138.510 to 138.540, when the pari-mutuel system of betting is operated at a track licensed under the provisions of KRS 137.170, said license may be suspended, revoked or renewal refused by the state racing commission, *after hearing in accordance with this Act* upon the failure of the operator to comply with the provisions of KRS 138.510 to 138.540 or the rules and regulations promulgated by the department of revenue pursuant thereto even though the pari-mutuel system of betting and the track are operated by different persons, corporations or associations.

Section 47. KRS 138.570 is amended to read as follows:

(1) A license shall be required of each special fuels dealer and each special fuels user-seller.

(2) Application for a license shall be made to the department upon forms prepared and furnished by the department. The application shall contain such information as the department deems necessary.

(3) Concurrently with the filing of an application for a license, the special fuels dealer shall file with the department a bond as required under KRS 138.575. No license shall be issued to any person unless such person has furnished a bond as provided in KRS 138.575 to secure payment of taxes, penalties and interest imposed by KRS 138.560 to 138.640. No bond shall be filed with an application for special fuels user-seller license.

(4) The application in proper form having been accepted for filing, the bond, if required, having been accepted and approved and the other conditions and requirements of this section having been complied with, the department shall issue a license. However, if an application for a license is filed by any person whose license has at any time previously been revoked for cause by the department, or if the department is of the opinion that the person who makes the application as a subterfuge for the real party in interest whose license, prior to the time of filing the application, has been revoked for cause, or that the application is not for any other reason filed in good faith or is not for sufficient cause, the department may, after a hearing *in accordance with this Act,* of which the applicant shall be given ten (10) days' notice in writing and in which he shall have the right to appear in person or by counsel and present testimony, refuse to issue a license to that person.

(5) All licenses shall be valid and remain in full force and effect until suspended or revoked for cause or otherwise canceled.

(6) A license shall not be assignable or transferable and shall be valid only for the person in whose name it is issued.

(7) The department shall keep and file all applications and bonds, with an alphabetical index thereof.

Section 48. KRS 138.575 is amended to read as follows:

(1) Every special fuels dealer shall file with the department a corporate bond, cash bond or securities approved by the department in a minimum amount of $500 and in a maximum amount of four (4) months' liability for taxes imposed under KRS 138.560 to 138.640 but not to exceed $50,000. If however, a special fuels dealer is bonded as provided in KRS 138.330 the department may waive the bonding requirement in this section provided a rider is attached to such bond to guarantee payment of all special fuels taxes together with all penalties and interest thereon and secure faithful compliance with the provisions of KRS 138.560 to 138.640.

The applicant for a license shall be the principal obligor and this state shall be the obligee. The bond shall be conditioned upon the prompt filing of true reports and the payment by the licensee to the department of all taxes levied under KRS 138.560 to 138.640, together with all penalties and interest thereon and generally upon faithful compliance with the provisions of KRS 138.560 to 138.640.

(2) If the liability upon the bond is discharged or reduced, whether by judgment rendered, payment made, or otherwise or if in the opinion of the department any surety has become unsatisfactory or unacceptable, the department may require the licensee to file a new bond with satisfactory surety in the same form and amount, failing which the department shall forthwith cancel the license. If a new bond is furnished by the licensee as above provided, the department shall cancel the bond for which the new bond is substituted.

(3) If upon hearing *in accordance with this Act,* of which the licensee shall be given ten (10) days' notice in writing, the department decides that the amount of the existing bond is insufficient to insure payment to this state of the amount of the tax, penalties and interest for which the licensee is or may become liable, the licensee shall forthwith, upon the written demand of the department, file an additional bond in the same manner and form with surety thereon approved by the department, in any amount determined by the department to be necessary, failing which the department shall forthwith cancel the license.

(4) Any surety on a bond furnished by a licensee shall be released from all liability to this state accruing on such bond after the expiration of sixty (60) days from the date upon which the surety has lodged with the department a written request to be released, but this request shall not operate to release the surety from any liability already accrued or which shall accrue before the expiration of the sixty (60) day period. The department shall promptly on the receipt of the request, notify the licensee who furnished the bond, and unless the licensee shall, before the expiration of the sixty (60) day period, file with the department a new bond with surety satisfactory to the department in the amount and form hereinbefore provided, the department shall forthwith cancel the license. If the new bond is furnished by the licensee as above provided, the department shall cancel the bond for which the new bond is substituted.

Section 49. KRS 138.580 is amended to read as follows:

(1) If a licensee at any time files a false monthly report of the information required, or fails or refuses to file the monthly report or to pay the full amount of the tax or violates any other provision of KRS 138.560 to 138.640, inclusive, without a showing that such failure was due to reasonable cause, the department may, *subject to the provisions of this Act,* cancel the license and suspend the privilege of acting as a special fuels dealer.

(2) Upon voluntary surrender of the license or upon receipt of a written request by a licensee, the department may cancel his license, effective sixty (60) days from the date of request, but no such license shall be canceled upon surrender or request unless the licensee has, prior to the date of cancellation, paid to this state all taxes, penalties, interest and fines that are due or have accrued, and unless the licensee has surrendered to the department his license.

(3) If upon investigation the department ascertains that any person to whom a license has been issued is no longer engaged as a special fuels dealer or special fuels user-seller, and has not been so engaged for a period of six (6) months, the department may cancel such license *in accordance with this Act,* by giving the person sixty (60) days' notice of cancellation, mailed to his last known address, in which event the license shall be surrendered to the department.

(4) Whenever a licensee ceases to engage in business within this state, he shall notify the department in writing within fifteen (15) days after discontinuance. All taxes that have accrued under KRS 138.560 to 138.640, inclusive, whether or not then due, shall become due and payable concurrently with such discontinuance. The licensee shall make a report and pay all such taxes and any interest and penalties thereon, and shall surrender to the department his license.

(5) If the license is canceled by the department as provided in this section, and if the licensee has paid to this state all taxes, interest and penalties due under KRS 138.560 to 138.640 and 138.990, the department shall cancel the bond filed by the licensee.

Section 50. KRS 138.645 is amended to read as follows:

Any gasoline dealer or special fuels dealer having a license revoked for the violation of any of the provisions contained in KRS 138.340 or KRS 138.580 may within the discretion of the department, *and after proceedings in accordance with this Act,* be denied the issuance of a gasoline dealer or special fuels dealer license, and any such licensee shall not have an interest in any such license either disclosed or undisclosed whether as an individual, partnership, corporation or otherwise.

Section 51. KRS 138.665 is amended to read as follows:

(1) A license shall be required of each motor carrier or heavy equipment motor carrier before he uses or continues to use gasoline or special fuels on the public highways of this state, except the department may issue a trip permit for each motor vehicle for a fee of ten dollars ($10.00) for each permit.

(2) Application for a license or trip permit shall be made to the department and shall contain such information as the department deems necessary.

(3) Concurrently with the filing of an application for a license, the motor carrier or heavy equipment motor carrier shall file with the department a bond as required under KRS 138.670. No license shall be issued to any person unless such person has furnished a bond as provided in KRS 138.670 to secure payment of taxes, penalties and interest imposed by KRS 138.655 to 138.725.

(4) The application in proper form having been accepted for filing, the bond having been accepted and approved and the other conditions and requirements of this section having been complied with, the department shall issue a license. However, if an application for a license is filed by any person whose license has at any time previously been revoked for cause by the department, or if the department is of the opinion that the person who makes the application as a subterfuge for the real party in interest whose license, prior to the time of filing the application, has been revoked for cause, or that the application is not for any other reason filed in good faith or is not sufficient cause, the department may, after a hearing *in accordance with this Act,* of which the applicant shall be given ten (10) days' notice in writing and in which he shall have the right to appear in person or by counsel and present testimony, refuse to issue a license to that person.

(5) All licenses shall be valid and remain in full force and effect until suspended or revoked *in accordance with this Act* for cause or otherwise canceled.

(6) A license shall not be assignable or transferable and shall be valid only for the person in whose name it is issued.

(7) The department shall keep and file all applications and bonds, with an alphabetical index thereof.

(8) Each holder of such license shall display such license number or other identification in the manner prescribed by the department.

Section 52. KRS 138.670 is amended to read as follows:

(1) Every motor carrier and heavy equipment motor carrier shall file with the department a corporate bond, cash bond or securities approved by the department in the minimum amount of $1,000 and in a maximum amount of four (4) months' liability for taxes imposed under KRS 138.655 to 138.725 but not to exceed $50,000. The applicant for a license shall be the principal obligor and this state shall be the obligee. The bond shall be conditioned upon the prompt filing of true reports and the payment by the licensee to the department of all taxes levied under KRS 138.655 to 138.725, together with all penalties and interest thereon and generally upon faithful compliance with the provisions of KRS 138.655 to 138.725.

(2) If the liability upon the bond is discharged or reduced, whether by judgment rendered, payment made, or otherwise, or if in the opinion of the department any surety has become unsatisfactory or unacceptable, the department may require the licensee to file a new bond with satisfactory surety in the same form and amount, failing which the department shall forthwith cancel the license. If a new bond is furnished by the licensee as above provided, the department shall cancel the bond for which the new bond is substituted.

(3) If, upon hearing *held in accordance with this Act,* of which the licensee shall be given ten (10) days' notice in writing, the department decides that the amount of the existing bond is insufficient to insure payment to this state of the amount of the tax, penalties and interest for which the licensee is or may become liable, the licensee shall forthwith, upon written demand of the department, file an additional bond in the same manner and form with surety thereon approved by the department, in any amount determined by the department to be necessary, failing which the department shall forthwith cancel the license.

(4) Any surety on a bond furnished by a licensee shall be released from all liability to this state accruing on such bond after the expiration of sixty (60) days from the date upon which the surety has lodged with the department, a written request to be released, but this request shall not operate to release the surety from any liability already accrued or which shall accrue before the expiration of the sixty (60) day period. The department shall promptly, on receipt of the request, notify the licensee who furnished the bond, and unless the licensee shall, before the expiration of the sixty (60) day period, file with the department a new bond with surety satisfactory to the department in the amount and form hereinbefore provided, the department shall forthwith cancel the license. If the new bond is furnished by the licensee as above provided, the department shall cancel the bond for which the new bond is substituted.

Section 53. KRS 138.675 is amended to read as follows:

(1) If a licensee at any time files a false quarterly report of the information required or fails or refuses to file the quarterly report or to pay the full amount of the tax or violates any other provisions of KRS 138.655 to 138.725, inclusive, without a showing that such failure was due to reasonable cause, the department may cancel his license *after notice and opportunity for a hearing in accordance with this Act.*

(2) Upon voluntary surrender of the license certificate or upon receipt of a written request by a licensee, the department may cancel his license, effective sixty (60) days from the date of the request, but no such license shall be canceled upon surrender or request unless the licensee has, prior to the date of cancellation, paid to this state all taxes, penalties, interest and fines that are due or have accrued, and unless the licensee has surrendered to the department his license certificate.

(3) If upon investigation the department ascertains that any motor carrier or heavy equipment motor carrier to whom a license has been issued is no longer engaged as such and has not been so engaged for a period of six (6) months, the department may cancel such license *after notice and opportunity for a hearing in accordance with this Act* by giving the motor carrier or heavy equipment motor carrier sixty (60) days' notice of cancellation mailed to his last known address in which event the license certificate shall be surrendered to the department.

(4) Whenever a licensee ceases to engage in business within this state, he shall notify the department in writing within fifteen (15) days after discontinuance. All taxes that have accrued under KRS 138.655 to 138.725, inclusive, whether or not then due, shall become due and payable concurrently with such discontinuance. The licensee shall make a report and pay all such taxes and any interest and penalties thereon, and shall surrender to the department his license certificate.

(5) If the license of a motor carrier or heavy equipment motor carrier is canceled by the department as provided in this section and if the licensee has paid to this state all of the taxes, interest and penalties due under KRS 138.655 to 138.725 and 138.990 (17) and (18), the department shall cancel the bond filed by the licensee.

Section 54. KRS 150.022 is amended to read as follows:

(1) The department of fish and wildlife resources commission shall consist of nine (9) members, one (1) from each wildlife district, as set out by the commissioner with the approval of the commission, and not more than five (5) of the same political party.

(2) The governor shall appoint the members of the commission. Each of such members shall be appointed for a term of four (4) years.

(3) Vacancies through the expiration of terms of the members of the commission shall be filled by appointment by the governor from a list of five (5) names from each wildlife district, recommended and submitted by the sportsmen of each respective district. When the term of a member expires, the commissioner shall call a meeting of the sportsmen in that district not later than thirty (30) days prior to the expiration of such member's term. Notice of the meeting shall be given by publication pursuant to KRS chapter 424. At such meeting, the sportsmen in attendance shall select and submit to the governor a list of five (5) residents and citizens of the district who are well informed on the subject of wildlife conservation and restoration. The governor shall appoint a successor to the member whose term is about to expire within sixty (60) days following the submission to him of the list hereinabove referred to, and in no event later than August 13.

(4) Upon appointment to the commission of the department of fish and wildlife resources, each commissioner shall execute a bond of one thousand dollars ($1,000) in favor of the department of fish and wildlife resources, the premium on said bond to be paid out of department funds.

(5) In the event of vacancies other than by expiration, the governor shall fill the vacancy for the unexpired part of the term from the names remaining on the list previously submitted for the district from which the vacancy arose.

(6) Each member of the commission shall take the constitutional oath of office.

(7) The governor may remove any member of the commission for inefficiency, neglect of duty, or misconduct in office; but shall first deliver to such member *notice* a copy of all charges in writing and afford to him an opportunity *for hearing to be scheduled and conducted in accordance with this Act* of being publicly heard in person or by counsel in defense of such charges, upon not less than ten (10) days' notice . If a member shall be removed, the governor shall file in the office of the secretary of state a complete statement of all charges made against such member and his findings thereon, together with a complete record of the proceedings. *Any member so removed may seek judicial review of the Governor's order in accordance with this Act.*

(8) Each member of the commission shall be entitled to reimbursement for actual and necessary traveling and other expenses incurred by him in the discharge of his official duties, such expenses not to exceed five hundred dollars ($500) per annum for each member, and to be paid from the game and fish fund.

(9) A majority of the commission shall constitute a quorum for the transaction of any business, for the performance of any duty or for the exercise of any power vested in the commission.

(10) The department shall have its principal office in Franklin County, and is authorized to purchase all supplies, equipment and printed forms and to issue such notices and publications as the commissioner may deem necessary to carry out the provisions of this chapter.

(11) The word "sportsman" as used in this section shall mean a resident hunter or fisherman who has been licensed in Kentucky for each of the past two (2) consecutive years.

Section 55. KRS 150.280 is amended to read as follows:

No person shall propagate or hold protected wildlife without first procuring a permit to do so from the department. The commissioner shall make and publish regulations governing all such activity. The application for such permit shall be in writing, addressed to the commissioner, signed by the applicant, and shall describe the land or waters owned or leased to be used and shall contain such other facts as may be required by the commissioner. The commissioner may issue a permit, which shall continue in force for one (1) year or any part thereof unless sooner revoked by the commissioner for cause *after notice and hea;e aring in accordance with this Act*, upon payment of a fee not to exceed five dollars ($5.00) and fees for tagging which shall be fixed by the commissioner. A fish and game club which enters into an agreement with the department to operate such a farm, in cooperation with the department, for the purpose of carrying out the department's program may, with the approval of the commissioner, be issued a permit without the payment of any fee. Any permit issued pursuant to this section may be revoked by the commissioner *after notice and hearing in accordance with this Act* at any time for a violation by the holder thereof of any of the laws of Kentucky or of any regulation of the department.

Section 56. KRS 150.630 is amended to read as follows:

No person shall violate any law or regulations relating to licensed shooting preserves, or licensed hunting preserves. Any owner or operator who permits any person to hunt on his or her licensed shooting preserve without the required license may have his or her license canceled or revoked by the commissioner of the department of fish and wildlife resources *in accordance with this Act.*

Section 57. KRS 150.660 is amended to read as follows:

(1) Any person may establish a pay lake subject to the approval of the commissioner of the department of fish and wildlife resources, who shall have the authority to approve or reject the establishment of pay lakes and issue to the owners of such lakes a license or permit for their operation.

(2) The license for the operation of a pay lake, after approval by the commissioner, shall be determined on a graduating cost per water surface acre as follows: Fifty dollars ($50.00) for the first two (2) acres or less than two (2) acres and ten dollars ($10.00) per acre for each additional acre until the total amounts to one hundred dollars ($100) which shall represent the maximum amount that shall be paid by any pay lake owner regardless of the number of acres. If a person, persons, or firm owns more than one (1) lake within one-half (½) mile from lake the total acres of all lakes shall be computed as if one (1) lake and license so issued. These licenses shall be due and payable on January 1 and shall be valid for a period of one (1) year.

(3) When a pay lake is licensed by the department, the commissioner shall issue to the owner, consecutively numbered permits to be issued to pay lake patrons. These licenses shall be issued without cost to the patron who desires to fish in said pay lake and are good only for any licensed pay lake within the state and shall be valid for one (1) year beginning January 1. These licenses shall be issued by the pay lake owner or operator at the headquarters on the property where the pay lake is located, and it becomes his responsibility to see that each fisherman is properly licensed before fishing. When the fisherman owns either a statewide or nonresident fishing license for the current year, the special permit shall not be required. If a fisherman owns a ten (10) day license for the current year and uses it at a pay lake on the dates indicated on the license, no special permit shall be required.

(4) Any pay lake owner or operator that fails to comply with the laws or regulations governing the operation of a pay lake may have his operator's license revoked by the commissioner *in accordance with this Act.*

(5) Any person operating a commercial fishing pond or lake that does not comply with the provisions of KRS 150.660 and 150.670, must require that his patrons have a regular resident, nonresident, or ten (10) day fishing license.

Section 58. KRS 151.125 is amended to read as follows:

The secretary shall exercise the following authority and powers:

(1) To administer and enforce the provisions of this chapter and all rules and regulations and orders promulgated thereunder.

(2) To conduct or obtain investigations, research, experiments, training programs and demonstrations, and to collect and disseminate information relating to the safe construction, operation, or maintenance of dams and reservoirs;

(3) To adopt, after giving public notice and affording an opportunity to all interested persons to appear and offer evidence at a public hearing in connection therewith, general rules and regulations for flood control and water resources which he deems necessary to accomplish the purpose of this chapter. Such rules and regulations, which shall have the force and effect of law, shall be of uniform application as far as practicable, but they may take proper account of differences in topography, geology, soil conditions, climate, hydrology, and use of the reservoir and the lands lying in the floodplain downstream from the dam;

(4) To adopt, without notice or hearing, rules and regulations *in accordance with this Act* with respect to procedural aspects of hearings, the filing of reports and orders, the issuance of certificates of inspection, construction permits, water withdrawal permits, and other procedural matters;

(5) To issue orders requiring the adoption by an owner of remedial measures necessary for the safety of life, or public or private property, or for carrying out the provisions of this chapter, or rules and regulations issued thereunder;

(6) To examine and approve or disapprove applications for construction permits for the construction, enlargement, repair, or alteration of a dam;

(7) To establish standards for the safe construction, enlargement, repair, alteration, maintenance, or operation of a dam or reservoir. Such standards shall be issued in the form of regulations as described in subsection (3) of this section;

(8) To make such investigations or inspections as necessary to determine the condition of a dam to insure compliance with any provisions of this chapter, including the right to enter at any time upon an area affected for such purposes and the right of ingress and egress across intervening properties;

(9) To order the suspension or revocation, after warning *and hearing in accordance with this Act*, of any certificate of inspection, construction permit, or water withdrawal permit for failure to comply with any of the provisions of this chapter or with any rules, regulations or orders adopted pursuant thereto, or with any of the conditions contained in or attached to the certificate of inspection, construction permits, or water withdrawal permits;

(10) To order the immediate cessation of any act that is started or continued without a construction permit or water withdrawal permit as required by the provisions of this chapter.

(11) To institute and prosecute all such court actions as may be necessary to obtain the enforcement of any order issued by the department in carrying out the provisions of this chapter.

Section 59. KRS 151.180 is amended to read as follows:

(1) Except as provided in KRS 151.297 regarding emergency situations, any person aggrieved by any order, determination, regulation, or ruling of the department may, within thirty (30) days of the *receipt of notice* effective date of such order, determination, regulation, or ruling, make application to the secretary for a hearing thereon *in accordance with this Act.*

(2) Upon receipt of a written petition from the petitioner pursuant to this section, the department shall give the petitioner thirty (30) days' written notice of the time and place of the hearing *in accordance with this Act*, but in no case shall such hearing be held later than sixty (60) days from the receipt of the written petition. All hearings shall be open to the public. Notice of any and all hearings shall be given at least thirty (30) days prior to the scheduled date of the hearing by public advertisement in a newspaper of general circulation in the county affected, giving the date, time, place, and purpose of such hearing.

(3) In connection with the hearing, the department shall issue subpoenas in response to any reasonable request by any party to the hearing requiring the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in the hearing. The department may administer oaths and examine witnesses. In case of refusal to obey a subpoena issued to any person, the circuit court of the county in which the person resides upon application by the department *in accordance with this Act*, may issue to the person an order requiring him to appear before the department, there to produce documentary evidence if so ordered or to give evidence touching the matter under investigation or in question; and any failure to obey the order of the court may be punished by the court as a contempt of court.

(4) On the basis of the evidence produced at the hearing, the secretary shall make findings of fact and conclusions of law and enter such decisions and orders, as in his opinion will best further the purposes of this chapter, and shall give written notice of such decisions and orders to the petitioner *in accordance with this Act* . The decision issued under this subsection shall be issued no later than thirty (30) days following the close of the hearing by the department.

(5) The decision of the department shall become final and binding on all parties, subject to judicial review as provided in KRS 151.190.

Section 60. KRS 151.190 is amended to read as follows:

Any person aggrieved by a final order of the division may obtain a review of the order *pursuant to this Act* by filing in the circuit court of the county in which the applicant resides, within thirty (30) days after entry of the order, a written petition praying that the order be modified or set aside in whole or in part. A copy of the petition shall be forthwith served upon the division, and thereupon the division shall certify the file in court a copy of the record before the division, including therein all pleadings, orders, documentary exhibits and stenographic transcript of testimony before the division. When these have been filed, the court shall have exclusive jurisdiction to affirm, modify, enforce or set aside the order, in whole or in part. No objection to the order may be considered by the court unless it was urged before the division or there was reasonable grounds for failure to do so. The findings of the division as to the facts, if supported by substantial evidence, are conclusive. If either party applies to the court for leave to adduce additional evidence, and shows to the satisfaction of the court that the additional evidence is material and that there were reasonable grounds for failure to adduce the evidence in the hearing before the division, the court may order the additional evidence to be taken before the division in such manner and upon such condition as the court may consider proper. The division may modify its findings as to the facts, by reason of the additional evidence so taken; and it shall file any modified or new findings with the court, which if supported by substantial evidence shall be conclusive, and may file any recommendation for the modification or setting aside of the original order. The commencement of proceedings under this section does not, unless specifically ordered by the court, operate as a stay of the division's order. An appeal may be taken from the judgment of the circuit court to the Court of Appeals on the same terms and conditions as an appeal is taken in any civil action.

Section 61. KRS 151.293 is amended to read as follows:

(1) An application for a certificate of inspection shall be submitted by the owner when requested by the department, and the department shall examine applications for a certificate of inspection and cause an on-the-ground inspection to be made of an existing dam. The department shall then, within sixty (60) days of the receipt of the completed application for a certificate of inspection, either grant the certificate or disapprove the request in writing *in accordance with this Act*, stating the reasons for disapproval.

(2) In deciding whether or not a certificate of inspection should be issued, the department shall take into account all pertinent facts and conditions, but shall not issue a certificate unless the following conditions have been met:

(a) The proposed action will be conducted in such a way that the safety of the public is adequately provided for;

(b) All information requested by the department has been provided; and

(c) The changed flow of the stream or level of the reservoir will not significantly interfere with a beneficial use by other water users.

(3) In granting a certificate of inspection, the department may impose such conditions relating to the inspection, operation, maintenance, alteration, repair, use, or control of a dam or reservoir as it determines are necessary for the protection of public health, safety or welfare.

(4) The department may establish hazard categories for dams based on downstream floodplain use, size, or type of dam, or other criteria, and may impose different conditions or types of conditions on the approval of dams or reservoirs in the different categories.

(5) The department may utilize the results and information provided by or for the United States Army Corps of Engineers pursuant to the provisions of Public Law 92-367 if the information is not more than one (1) year old at the time of use.

(6) Certificates of inspection shall be for a definite period of time, not to exceed five (5) years, as determined by the department and stated on the certificate. In determining the period of inspection, the department may take account of any circumstances pertinent to the situation, including, but not limited to, the size and type of dam, topography, geology, soil conditions, hydrology, climate, use of the reservoir, the lands lying in the floodplain downstream from the dam, and the hazard category of the dam.

(7) The department may modify a certificate of inspection or the conditions attached to it. Such modification shall become effective ninety (90) days following issuance by the department of a revised certificate *in accordance with this Act*, except when the department finds that a state of emergency exists and that life or property would be endangered by delay. In case of an emergency declared by the department *in accordance with this Act*, the new conditions shall be effective immediately.

(8) Specific guidelines for issuance and renewal of certificate of inspection shall be provided by regulations.

(9) Plans and specifications submitted to the department shall be the responsibility of and signed by an engineer licensed by the Commonwealth and experienced in the design and construction of dams, as determined by the department.

Section 62. KRS 151.297 is amended to read as follows:

(1) Whenever the department determines that any person to which a certificate of inspection has been issued has failed to comply with the conditions in said certificate or whenever the department determines that life or property are or may be endangered by the failure or incapacity of any dam, reservoir, levee, embankment, or other water barriers, or by other causes related to a dam or reservoir, levee, embankment, or other water barriers irrespective of any conditions or the lack thereof in the certificate of inspection for said dam or reservoir, or in those instances where no certificate is required on levee, embankment or other water barriers, the department shall order the owner thereof to take such action as is necessary to render the dam, reservoir, levee, embankment, or other water barriers safe. Where the owner fails, in the judgment of the department, to take satisfactory action toward compliance with such order, or to maintain a satisfactory rate of progress toward full compliance therewith, or where in the judgment of the department, the danger to life or property will not permit delay, the department shall request that a state of emergency be declared by the governor, and upon such declaration, shall take such action as it deems necessary to render the dam, reservoir, levee, embankment, or other water barriers safe, which action may include, but is not limited to:

(a) Taking full charge and control of the dam, reservoir, levee, embankment, or other water barriers;
(b) Lowering the water level or emptying the reservoir;
(c) Performing any necessary remedial or protective work at the site; or
(d) Taking such other steps as may be necessary to safeguard life and property.

(2) The department may continue such action until the dam, reservoir, levee, embankment, or other water barriers involved is rendered safe or the emergency requiring the action has ceased. The secretary is authorized to enter into contracts or agreements with other state, local, or federal agencies, or other persons, for work necessary to implement such necessary actions.

(3) Any person to whom an order is directed pursuant to this section shall comply therewith immediately, but, on petition to the department, may within *twenty (20)* five (5) working days have a hearing thereon *conducted pursuant to this Act.*

Section 63. KRS 152.125 is amended to read as follows:

The departments and agencies named in KRS 152.120 may in their discretion provide by regulation for the licensing, insofar as relates to their particular fields of regulatory activity, of the possession or use of any source of ionizing or electronic product radiation and the handling and disposal of radioactive wastes. Such regulations may specify the form of application for license, the qualifications therefor, grounds for revocation of same by the issuing agency, *provided that procedures for such revocation, or for denial or suspension, of a license are in accordance with this Act,* and such other matters as may be needed to make licensing effective as a means of control. Promulgation of such regulations shall be in accordance with the provisions of KRS 152.130.

Section 64. KRS 156.132 is amended to read as follows:

(1) The superintendent of public instruction or the state board of education shall recommend, by written charges to the proper school authorities having immediate jurisdiction, the removal of any superintendent of schools, principal, teacher or other public school officer who in his or their opinion is guilty of immorality, misconduct in office, incompetency or wilful neglect of duty.

(2) The superintendent of public instruction shall recommend by written charges the suspension by the state board of education of any district board member or superintendent of schools who in his opinion is guilty of immorality, misconduct in office, incompetency or wilful neglect of duty. The state board of education shall, after a summary hearing as provided by *this Act* regulations , suspend any district board of education member or superintendent of schools, who in the opinion of the majority of the state board of education is guilty of gross immorality, misconduct in office, incompetence or wilful neglect of duty. Such action by the state board of education may be taken upon a recommendation of the superintendent of public instruction, or such action may be taken by a majority vote of the state board of education without recommendation from the superintendent of public instruction.

(3) The state board of education may suspend a district superintendent of schools under subsection (2) of this section only if after thirty (30) days of receipt of the written charges specified in subsection (1) of this section, the district board of education has refused to act, has acted in bad faith, arbitrarily or capriciously, or if a recommendation to the district board would have been futile.

Section 65. KRS 156.134 is amended to read as follows:

(1) Any officer suspended by the state board of education under subsection (2) of KRS 156.132 shall be furnished with a written statement, specifying in detail the reasons for suspension and naming a date and place at which the officer may appear before the state board of education to answer the charges. The date shall be not less than twenty (20) nor more than thirty (30) days after the service of such charges upon the officer. Within ten (10) days after receipt of the charges, the officer may notify the state board of education of his intention to appear and answer such charges. If the officer fails to notify the board of his intention to appear and answer such charges, the state board of education may remove the officer by a majority vote and such dismissal shall be final.

(2) Upon receipt of the officer's notice of intention to appear and answer such charges, the state board of education shall issue such subpoenas as shall be necessary for the determination of the issues involved. The issues shall be heard at the time and place set and the hearing shall be public or private at the discretion of the state board of education. *The hearing shall be conducted in accordance with this Act.* Both parties may be represented by counsel and may require the presence of witnesses upon subpoena. Each witness shall be required to take oath before an officer of the board. The state board of education shall provide for a stenographic report of the proceedings and furnish the officer with a copy.

(3) Upon completion of both sides of the case, but within ninety (90) days from the date the officer was suspended, the state board of education may by a majority vote remove the officer. If within ninety (90) days from the date of suspension, the state board has not removed the officer, or has dismissed the charges, the suspended officer shall be reinstated and shall be paid his full salary for the period of such suspension.

(4) The officer shall have a right to appeal both as to law and to fact to the circuit court for trial without a jury *in accordance with this Act*. If said appeal is not made within thirty (30) days after removal, then the decision of the state board of education shall be final. Said appeal shall be an original action in said court and shall be commenced by the filing of a petition against the state board of education, in which petition the facts shall be alleged upon which the officer relies for a reversal or modification of the order of removal. Upon service or waiver of summons in said appeal, the state board of education shall forthwith transmit to the clerk, of said court for filing a transcript of the original notice of charges and a transcript of all evidence adduced at the hearing, whereupon the cause shall be at issue without further pleading and shall be advanced and heard with delay. The court shall examine the transcript and record of the hearing before the state board of education and shall hold such additional hearings as it may deem advisable, at which it may consider other evidence in addition to such transcript and record. Upon final hearing, the court shall grant or deny the relief prayed for in the petition. Either the officer or the state board of education may appeal from the action of the court to the Court of Appeals. If the decision of the court is against removal, the officer shall be paid his full salary from the date of suspension. Such payment shall be made from funds appropriated to the state department of education.

Section 66. KRS 159.990 is amended to read as follows:

(1) Any parent, guardian or custodian who wilfully fails to comply with the requirements of KRS 159.010 to 159.170 shall be fined not more than ten dollars ($10.00) for the first offense, and not more than twenty dollars ($20.00) for each subsequent offense. The court trying the case may suspend enforcement of the fine if the child is immediately placed in attendance at a school, and may finally remit the fine if the attendance continues regularly for the full school term. School attendance may be proved by an attested certificate of the principal or teacher in charge of the school.

(2) Any principal, teacher, director of pupil personnel, assistant director of pupil personnel or other school officer who wilfully fails to comply with the provisions of KRS 159.010 to 159.260, or of KRS 160.330 shall be fined not less than twenty-five dollars ($25.00) nor more than fifty dollars ($50.00). Upon conviction under this subsection a director of pupil personnel or assistant director of pupil personnel shall be removed from office and have his certificate revoked, and a principal, teacher or other school officer may have his certificate revoked, *in accordance with this Act*.

(3) Any person, other than those persons mentioned in subsections (1) and (2) of this section, who fails to comply with any of the provisions of this chapter relating to compulsory attendance, or who violates any of the provisions of KRS 159.130, shall be fined not less than fifty dollars ($50.00) nor more than two hundred dollars ($200), or imprisoned in the county jail for not more than sixty (60) days, or both.

(4) Any person who violates any of the provisions of KRS 159.270 shall be liable to a fine of not less than fifty dollars ($50.00) and shall be liable to the punishment prescribed by law for the crime of false swearing. If he is an officer he shall be removed from office, and if he is a director of pupil personnel his certificate shall be revoked.

(5) All fines imposed and all sums required to be paid as penalties under this section shall, after payment of the costs of prosecution and recovery thereof, be paid into the treasury of the district board of education and become a part of the school fund of the district.

Section 67. KRS 161.120 is amended to read as follows:

Any certificate issued under KRS 161.010 to 161.110, or any certificate or license issued under any previous law to superintendents, principals, teachers, supervisors, attendance officers or other administrative, supervisory or instructional employes may be revoked *in accordance with this Act* by the state board of education, on the written recommendation of the superintendent of public instruction, for immorality, misconduct in office, incompetency, or wilful neglect of duty. Before the certificate is revoked the defendant shall be given a copy of the charges against him and an opportunity, upon not less than ten (10) days' notice, to be heard in person or by counsel.

Section 68. KRS 163.330 is amended to read as follows:

(1) No person shall solicit or perform the services of an agent in this state for a proprietary school, located either within or without this state, unless said person shall have been issued an agent's permit for said proprietary school.

(2) No person shall be issued an agent's permit unless he is an individual of good moral character as determined by the state board.

(3) Except as provided in subsection (8) of this section, no person shall be issued an agent's permit unless he shall make application upon forms to be provided by the state board, and unless said application shall be accompanied by a fee of ten dollars and a good and sufficient surety bond in a penal sum of five thousand dollars. Said bond shall be executed by the applicant as principal and by a surety company qualified and authorized to do business in this state.

(4) (a) The surety bond shall be conditioned to provide indemnification to any student or enrollee who shall suffer loss or damage as a result of fraud or misrepresentation to said student or enrollee in procuring his enrollment in a course or courses of instruction or study offered or maintained by said proprietary school. The liability on said surety bond shall be five thousand dollars for each agent each school year, as the term "school year" is defined in KRS 163.340 (8). Regardless of the number of years that an agent's bond is in force, the aggregate liability of the surety bond shall, in no event, exceed the penal sum of the bond. The surety bond may be continuous.

(b) Any claimant may file with the state board a duly verified claim against an agent. The board may consider a claim *in accordance with this Act and provide a* after ten days' written notice by certified or registered mail, return receipt requested, to such licensee of said complaint giving time and place of hearing thereon and if such claim is found to be correct and due to the claimant, and if the board cannot effect a settlement by persuasion and conciliation, the board shall make a demand upon the principal on such bond and the surety thereon, and if not paid shall bring an action on such bond in any court of record within the State of Kentucky.

(5) The surety bond may be of blanket form to cover more than one agent for a proprietary school, but it shall cover each agent for said proprietary school in a penal sum of five thousand dollars.

(6) A surety on said bond may be released therefrom after said surety shall make a written notice thereof directed to the state board at least thirty days prior to said release.

(7) The surety bond shall cover the period of the agent's permit except when a surety shall be released in the manner as provided by subsection (6) of this section.

(8) Notwithstanding the provisions of subsection (3) to (7) of this section, the state board may issue an agent's permit to each person who is an owner of more than ten per cent legal interest in a proprietary school located in this state and who is a resident of this state, and no such owner shall be required to pay the agent's permit fee or execute an agent's surety bond as otherwise required by this section; provided, that said proprietary school shall have been issued a certificate of approval pursuant to the provisions of KRS 163.310 to 163.390.

(9) An agent's permit shall be suspended by operation of law when said agent is no longer covered by a surety bond as required by this section; but the state board shall cause said agent to receive at least ten days' written notice prior to the release of his surety to the effect that said permit shall be suspended by operation of law until another surety bond shall be filed in the same manner and like amount as required for the initial surety bond.

(10) An agent's permit shall be valid for a period of one school year as defined in KRS 163.340 (8), except when suspended or cancelled pursuant to the provisions of KRS 163.310 to 163.390. An agent's permit may be renewed in the same manner, at the same fee, and under the same conditions prescribed for the issuance of an initial agent's permit.

Section 69. KRS 163.340 is amended to read as follows:

(1) No person, company, firm, corporation, association, society, or partnership shall maintain and operate a proprietary school located within this state until said school shall have been issued a certificate of approval by the state board pursuant to the provisions of KRS 163.310 to 163.390. No certificate of approval shall be issued by the state board to any proprietary school which denies enrollment in said school to any pupil, on account of race, color, or creed. The Kentucky Commission on Human Rights shall have power to make investigation as to discriminatory practices of any proprietary school, and shall report thereon to the state board, and said board shall, upon report that any such school is engaging in discriminatory practices, deny or suspend a certificate of approval of such school, in accordance with the provisions of this subsection and of subsection (6)(b) of this section, after notice and public hearing as required by KRS 163.310 to 163.390.

(2) No proprietary school shall be issued a certificate of approval unless it shall make application, through its officers or an owner, upon forms to be provided by the state board, and unless said application shall be accompanied by a fee of twenty-five dollars and a good and sufficient surety bond in a penal sum of twenty thousand dollars. Said bond shall be executed by the applicant as principal and by a surety company qualified and authorized to do business in this state.

(3) (a) The surety bond shall be conditioned to provide indemnification to any student or enrollee or his parent or guardian suffering loss or damage as a result of any fraud or misrepresentation used in procuring his enrollment or as a result of any fraud or misrepresentation as represented by the application for the certificate of approval, or as a result of the student being unable to complete the course or courses because the school ceased operations. Such indemnification under the surety bond to any or all students or parents or guardians shall, in no case, exceed the advanced tuition paid or liable to be paid for by said student or students or any such parent or guardian and regardless of the number of years that a school's bond is in force, the aggregate liability of the surety bond shall, in no event, exceed the penal sum of the bond. The surety bond may be continuous.

(b) Any claimant may file with the state board a duly verified claim against a proprietary school. The board may consider such claim *in accordance with this Act and provide a* after ten days' written notice by certified or registered mail, return receipt requested, to such school of said complaint giving time and place of hearing thereon and if such claim is found to be correct and due to the claimant, and if the board cannot effect a settlement by persuasion and conciliation, the board shall make a demand upon the principal on such bond and the surety thereon, and if not paid may bring an action on such bond in any court of record within the state of Kentucky.

(4) A surety on said bond may be released therefrom after said surety shall have made a written notice thereof directed to the state board at least thirty days prior to said release.

(5) The surety bond shall cover the period of the certificate of approval except when said surety shall be released in the manner as provided by this section.

(6) (a) The certificate of approval shall be suspended by operation of law when said proprietary school is no longer covered by a surety bond as required by this section; but the state board shall cause said proprietary school to receive at least ten days' written notice prior to the release of said surety to the effect that said approval shall be suspended by operation of law until another surety bond shall be filed in the same manner and like amount as required for the initial surety bond.

(b) The certificate of approval shall be suspended by operation of law at any time any certified proprietary school shall deny enrollment in said school to any pupil, on account of race, color, or creed.

(7) The application for a certificate of approval shall be accompanied by a copy of each of all school catalogs, bulletins, and other published materials to aid the state board in evaluating the school for the purpose of granting or denying a certificate of approval. The application and accompanying data shall be certified as true and correct in content and policy by the chief executive officer of said proprietary school.

(8) A certificate of approval shall be valid for a period of one school year, beginning the first day of July and ending the thirtieth day of June next following, except when said approval shall be suspended or cancelled pursuant to the provisions of KRS 163.310 to 163.390. A certificate of approval may be renewed in the same manner, at the same fee, and under the same conditions prescribed for the issuance of initial approval.

(9) The bonding requirements herein set forth may be reduced in the sole discretion of the state board upon a showing by the proprietary school that they are excessive in the case of any particular proprietary school.

Section 70. KRS 163.370 is amended to read as follows:

(1) An agent's permit may be revoked by the state board for fraud or misrepresentation in procuring or soliciting a student or prospective student for enrollment in a course or courses of instruction or study offered or maintained by a proprietary school located within or without this state. An agent's permit may be revoked by the state board for a false or misleading written or oral statement in the application therefor submitted by the applicant with the intent to mislead or conceal the truth.

(2) In the event that the certificate of approval of the proprietary school designated upon an agent's permit shall be suspended or revoked, or in the event said agent shall leave the employ of said approved proprietary school, the agent's permit shall be suspended by operation of law; provided, that the agent shall be given at least ten days' written notice of said suspension, and of the suspension or revocation of the certificate of approval of said proprietary school; and provided further, that said agent shall be entitled to obtain a reissue of his agent's permit for the remaining unexpired period of time, without an additional fee, with another approved proprietary school designated thereon.

(3) A certificate of approval issued to a proprietary school may be suspended or revoked for the failure to maintain and operate a course or courses of instruction or study in compliance with the standards prescribed in KRS 163.360. A certificate of approval may be suspended or revoked by the state board for a false or misleading written or oral statement submitted by the applicant proprietary school with the intent to mislead or conceal the truth.

(4) An agent's permit or the certificate of approval of a proprietary school may be suspended or revoked by the state board *only in accordance with this Act.*

Section 71. KRS 164.230 is amended to read as follows:

The board of trustees has full power to suspend or remove any of the officers, teachers, professors or agents that it is authorized to appoint, but no president, professor or teacher shall be removed except for incompetency, neglect of or refusal to perform his duty, or for immoral conduct. A president, professor, *officer, agent* or teacher shall not be removed until after ten (10) days' notice in writing, stating the nature of the charges preferred, and after an opportunity *for hearing in accordance with this Act* has been given him to make defense before the board by counsel or otherwise and to introduce testimony which shall be heard and determined by the board .

Section 72. KRS 164.360 is amended to read as follows:

(1) Each board of regents may appoint a president, and on the recommendation of the president may, in its discretion, appoint all faculty members and employes and fix their compensation and tenure of service, subject to the provisions of subsection (2) of this section.

(2) No person shall be employed for a longer period than four (4) years. No person shall be employed who is related to any member of the board of regents as father, mother, brother, sister, husband, wife, son, daughter, aunt, uncle, sister-in-law, brother-in-law, son-in-law or daughter-in-law, except that upon written recommendation of the president of the university or college, one (1) such relative of each member of the board of regents may be appointed upon confirmation by the other three (3) appointed members.

(3) Each board may remove the president of the university or college, and upon the recommendation of the president may remove any faculty member or employe, but no president or faculty member shall be removed except for incompetency, neglect of or refusal to perform his duty, or for immoral conduct. A president, *employe,* or faculty member shall not be removed until after ten (10) days' notice in writing, stating the nature of the charges preferred, and after an opportunity *for hearing in accordance with this Act* has been given him to make defense before the board by counsel or otherwise and to introduce testimony which shall be heard and determined by the board. Charges against a president shall be preferred by the chairman of the board upon written information furnished to him, and charges against a faculty member shall be preferred in writing by the president unless the offense is committed in his presence.

Section 73. KRS 164.370 is amended to read as follows:

Each board of regents may invest the faculty or a committee of the faculty with the power to suspend or expel any student for disobedience to its rules, or for any other contumacy, insubordination or immoral conduct. In every case of suspension or expulsion of a student the person suspended or expelled may appeal to the board of regents. The board of regents shall prescribe the manner and the mode of procedure on appeal *and provide notice and opportunity for a hearing in accordance with this Act.* The decision of the board of regents shall be final.

Section 74. KRS 166.060 is amended to read as follows:

The state board of education may remove the president, and upon recommendation of the president shall remove any officer, teacher or other employe, but neither the president nor any other officer or teacher shall be removed except for incompetency, neglect of or refusal to perform his duty, or for immoral conduct. Neither the president nor any other officer, *employe* or teacher shall be removed until after ten (10) days' notice in writing stating the nature of the charges preferred, and until after an opportunity *for hearing in accordance with this Act* has been given him to make defense before the board by counsel or otherwise, and to introduce testimony which shall be heard and determined by the board.

Section 75. KRS 171.290 is amended to read as follows:

In a proceeding to revoke a certificate of librarianship under the provisions of KRS 171.990(2), written notice of the proposed action shall be delivered in person, or forwarded by registered mail or by certified mail, return receipt requested to the holder of the certificate at his last known post-office address, stating the cause for the contemplated action together with a copy of the charges and appointing a time and a place for the hearing by the board *shall be provided in accordance with this Act.*

Section 76. KRS 171.300 is amended to read as follows:

The board shall grant hearings *in accordance with this Act* for the purposes of reconsidering applications and awards if the applicant files with the board, within twenty (20) days of *the board's final order or* issuance of or refusal to issue a certificate, a petition for rehearing. The board's refusal to grant certificates may be reviewed and its issuance may be ordered by *a circuit court upon judicial review taken in accordance with this Act* any court having jurisdiction.

Section 77. KRS 176.140 is amended to read as follows:

(1) The bureau shall determine who shall be eligible to bid upon any contract with the bureau for the construction or maintenance of any public road or section thereof. The bureau may adopt rules and regulations and make investigations and examinations to determine the financial status, experience, responsibility, business ability, previous record, sufficiency of plant and equipment, and any other pertinent facts necessary to determine the eligibility of the proposed bidder.

(2) The bureau shall establish rules and regulations governing the application for the certificate of eligibility, the means and methods of obtaining information relative to the applicant, and the granting of, or refusal to grant, a certificate of eligibility, and may require a financial statement of the applicant, verified by the applicant or, in the case of a corporation, by an authorized official thereof, as often as the bureau deems it

necessary, and at least once in every twelve (12) months. *A refusal to grant such certificate shall be made only in accordance with this Act.*

Section 78. KRS 176.170 is amended to read as follows:

(1) Any applicant aggrieved by the decision of the bureau may, within ten (10) days after receiving notification of such decision, request in writing a reconsideration of his application, and may submit additional evidence bearing on his qualifications. The bureau shall thereupon reconsider the application, and may adhere to, modify or reverse its previous decision. The bureau shall act upon any request for reconsideration within thirty (30) days after the filing thereof, and shall immediately notify the applicant of the action taken.

(2) Within *thirty (30)* ten (10) days after his notification of the final action of the bureau upon such reconsideration, any applicant who is still aggrieved by the decision may appeal to the Franklin Circuit Court, *in accordance with this Act. It* or any other court of competent jurisdiction, on the grounds of fraud or abuse of discretion by the department. The appeal shall be perfected by the filing of a bond with the clerk of the court in such amount as the clerk may fix and by causing a summons to be served upon the department as in other civil actions. The court shall hear the evidence offered by the applicant and by the bureau, and if it finds that there was neither fraud nor abuse of discretion, it shall dismiss the appeal. Otherwise it may make the order with respect to qualifications which it finds should have been made by the bureau. The order of the court shall be binding on the bureau.

Section 79. KRS 176.180 is amended to read as follows:

(1) In issuing a certificate of eligibility to any applicant, the bureau may limit, *in accordance with this Act,* the scope of the certificate as to the number or type of projects, or the amount of work that the contractor may bid upon.

(2) Any applicant who is dissatisfied with the bureau's ruling as to the aggregate amount of work which he will be permitted to have under contract at any one (1) time, may at any time file a new application for qualification. Such new application shall be promptly considered and acted upon by the department *in accordance with this Act.*

Section 80. KRS 176.190 is amended to read as follows:

A certificate of eligibility may be revoked by the department only after a written notice is given to the qualified bidder and an opportunity given to him to be heard by the bureau *in accordance with this Act.* The notice shall enumerate the grounds on which the revocation is proposed to be issued.

Section 81. KRS 177.130 is amended to read as follows:

(1) The bureau shall give at least ten (10) days' notice by registered mail or by certified mail, return receipt requested to the railroad company of a hearing to be held *in accordance with this Act,* at a time and place stated in the notice, at which hearing it shall consider whether or not the proposed grade separation or change is reasonably necessary and the most advantageous method of effecting the grade separation or change. If the bureau finds that the grade separation or change is reasonably necessary, it shall make an order to that effect and furnish a copy thereof by registered mail or by certified mail, return receipt requested to the railroad company *in accordance with this Act.* The order shall specify the location of the crossing to be substituted, the grade thereof, whether it shall pass over or under the railroad tracks, the width of the crossing and the angle at which the crossing shall meet and converge into the roadbed on either side of the railroad tracks. The order may direct the railroad company to prepare plans, specifications and estimates of cost for the grade separation or change in accordance with the general plan prescribed by the order. The order may provide that the plans, specifications and estimates of cost shall be prepared by the bureau.

(2) When a primary road is relocated and the grade is separated and the new underpass or overhead bridge is located at some point other than the old grade crossing, and when it is necessary that the original grade crossing on the old road be left in for the accommodation of the local public to be used as a county road or private road leading into the primary road, the bureau shall not take any of the responsibility for the closing of the grade crossing, but its status shall be left to the discretion of the county officials and the railroad company.

Section 82. KRS 177.150 is amended to read as follows:

(1) After receipt of the plans, specifications and estimates of cost from the railroad company the bureau shall give at least ten (10) days' notice by registered mail or by certified mail, return receipt requested to the railroad company of a time and place for final hearing *in accordance with this Act* with respect to the grade separation or change. If the bureau elects to prepare plans, specifications and estimates of cost, it shall furnish copies thereof to the railroad company prior to or at the time it gives notice of a final hearing. At the final hearing, the bureau shall approve or modify the plans and specifications and shall consider and determine the method of doing the work, whether by the railroad company or by the bureau, or partly by one and partly

by the other, and whether by contract or by the employes of the bureau or the railroad company, or both, or by any combination of these methods, and if by contract, the method and manner of advertising for bids, the time and place of opening the bids, the time when work shall be begun and completed, and all similar matters of an administrative nature. The bureau shall embody its conclusions in a final order, a copy of which shall be *provided in accordance with this Act* sent by registered mail or by certified mail, return receipt requested to the railroad company.

(2) The bureau and any railroad company may agree by contract as to the method of eliminating any grade crossing or changing any existing overhead or underpass structure. In event of such agreement all notices, hearings and proceedings shall be deemed to have been waived, and the work of eliminating the grade crossing or making the change shall be performed in accordance with the terms of the contract, with the same effect as though the work was being performed pursuant to a final order of the bureau.

Section 83. KRS 177.935 is amended to read as follows:

The bureau is hereby empowered to:

(1) Exercise general supervision of the administration and enforcement of KRS 177.905 to 177.950.

(2) Adopt, after hearing, such rules and regulations pertaining to the operation of automobile, vehicle, machinery or material junkyards as the commissioner may deem necessary to the administration and enforcement of KRS 177.905 to 177.950.

(3) Adopt, without hearing, rules and regulations with respect to the sufficiency, type of material or foliage, height, density and size of screening required by KRS 177.915 to insure the accomplishment of the purpose of KRS 177.905 to 177.950.

(4) Adopt, without hearing, rules and regulations with respect to the procedural aspects of hearings *in accordance with this Act*, the filing of reports and orders, the issuance of permits and other matters.

(5) Issue, after hearing *in accordance with this Act*, orders abating the operation of an automobile, vehicle, machinery or material junkyard in violation of the provisions of KRS 177.905 to 177.950, or requiring the adoption of remedial measures including the construction or planting of screens or the utilization of natural screening, extension, modification or addition to new or existing screens.

(6) Issue, continue in effect, revoke, modify or deny *in accordance with this Act* under such conditions as the bureau may prescribe permits for the operation of an automobile, vehicle, machinery or material junkyard.

(7) Make investigations or inspections which may be deemed necessary by the commissioner to insure compliance with the provisions of KRS 177.905 to 177.950, or with any rules, regulations or orders of the bureau which may be deemed necessary to enable the bureau to administer and enforce the provisions of KRS 177.905 to 177.950.

(8) Institute in a court of competent jurisdiction procedures, including injunctive relief, to compel compliance with the provisions of KRS 177.905 to 177.950 and with the orders, rules and regulations issued pursuant thereto.

(9) Enter at any reasonable time through any officer, assistant, agent or employe in or upon any public or private property for the purpose of investigation and inspection of conditions relating to the operation of any automobile, vehicle, machinery or material junkyard.

(10) Perform such other and further acts as may be necessary, proper or desirable in order to carry out effectively the duties and responsibilities of the bureau prescribed in KRS 177.905 to 177.950.

Section 84. KRS 177.940 is amended to read as follows:

(1) Public hearings shall be conducted *in accordance with this Act* by the bureau prior to the adoption of any rules or regulations which pertain to the prevention, abatement or control of automobile, vehicle, machinery or material junkyards or before the issuance of any order prohibiting the performance by any person of any act or acts deemed to be in contravention of any rules, regulations, orders or permits of the bureau; or before denial, revocation or modification of any permit provided for by KRS 177.905 to 177.950; or before any other final determination is made by the bureau which directly affects the activities of any person.

(2) The bureau shall grant a hearing to any person, not previously heard in connection with the issuance of any order or the making of any determination, who may consider himself aggrieved by any such order or determination and who shall file with the bureau a verified petition alleging that such order or determination is contrary to law or that is injurious to him, stating the grounds and reasons therefor and requesting a hearing thereon. At such hearing *scheduled and conducted in accordance with this Act* the petitioner may appear in person or by attorney, may present his side and may submit evidence, and shall be given full opportunity to be heard.

(3) The hearings provided for in KRS 177.905 to 177.950 may be conducted by the commissioner, deputy commissioner or any highway official *or hearing examiner* designated by the commissioner in the name of the bureau at a time and place specified by the commissioner. *Notice for and the conduct of all such hearings shall be in accordance with this Act.*

Section 85. KRS 183.032 is amended to read as follows:

(1) Processes and proceedings under this chapter shall be *scheduled and conducted in accordance with this Act* as summary and simple as possible . The department, or any employe thereof, for the purpose of this chapter, may subpoena witnesses, administer or cause to have administered oaths; and examine, or cause to have examined, parties and such parts of the books and records of the parties to a proceeding as relate to the question under consideration.

(2) The sheriff shall serve all subpoenas of the department and shall receive from the department the same fee as provided by law for like service in civil actions.

(3) Each witness who appears in obedience to such subpoena shall receive for attendance the fees and mileage for witnesses in civil cases in the circuit court to be paid by the party at whose request the witness was subpoenaed.

(4) The circuit court shall, on application of the department or any officer thereof, enforce by proper proceedings the attendance and testimony of witnesses and the production and examination of books, papers, and records.

Section 86. KRS 183.090 is amended to read as follows:

(1) The department shall cause all airport facilities in the state to be inspected to determine the safety and adequacy of such facilities. No person shall operate any aircraft from an airport declared unfit by the department.

(2) In determining whether it shall issue a certificate of approval or license for the use or operation of any airport, the department shall take into consideration its location, size, layout, safety of operations, the relationship of the airport to a comprehensive plan for state-wide and nation-wide development, whether the adjoining area is free from obstructions based on a proper glide ratio, the nature of the terrain, the nature of the uses to which the airport will be put, and the possibilities for future development.

(3) The department is empowered to temporarily or permanently revoke any certificate of approval or license issued by it when it shall determine *in accordance with this Act* that an airport or other navigation facility is not being maintained or used in accordance with the provisions of this chapter and the rules and regulations promulgated pursuant thereto.

Section 87. KRS 183.540 is amended to read as follows:

(1) Any person seeking to engage in the operation of a common carrier in intrastate commerce of persons or property by aircraft, shall first obtain a certificate of public convenience and necessity from the department in accordance with the provisions of this section and KRS 183.530 to 183.620. All certificates issued to common carriers shall automatically grant to such common carriers the right to conduct charter operations that originate at a point on said carrier's route to any other point in the state, and return. Any such certificate shall be null and void unless the person to whom the certificate is granted, shall in good faith, begin and continue to operate under the terms of the certificate.

(2) If it appears from the application that the applicant is a holder of a certificate of public convenience and necessity issued by the civil aeronautics board and that the applicant is operating between two (2) or more points in this state pursuant to such certificate, the department shall forthwith issue to the applicant an intrastate certificate of public convenience and necessity authorizing the applicant to engage in transportation by air of persons and property between all of the points in this state between which the applicant is authorized to operate by the terms of its interstate or federal certificate.

(3) Any person engaged or seeking to engage in the air transportation of persons or property in intrastate commerce for hire on an unscheduled basis and not between fixed points shall first obtain a charter permit from the department. Upon filing of an application for a charter permit the department shall cause notice of such filing to be given by mail not less than thirty (30) days before granting such application, addressed to all air common carriers and all holders of charter permits and applicants therefor whose operations or proposed operations would be affected by the granting of the permit and upon any other person deemed by the department to have an interest in such application.

(4) If no objection to the granting of such permit is filed with the department within thirty (30) days after the mailing of the notice, the department may proceed informally, in accordance with such rules and regulations as it may adopt, and grant or deny such application in whole or in part and upon such terms and conditions as the public interest may require.

(5) If objection is filed and a hearing requested by an interested party, *or if the application is denied pursuant to subsection (4) of this section,* the department shall set the application down for hearing and disposition in accordance with the procedure set forth in KRS 183.560, 183.570 and 183.620.

Section 88. KRS 183.570 is amended to read as follows:

(1) The department is hereby vested with the power and authority and it is hereby made its duty upon the filing of an application for a certificate of public convenience and necessity to hear and determine under such rules and regulations as it may promulgate whether the public convenience and necessity require such proposed service.

(2) The department shall issue a certificate authorizing the whole or any part of the transportation requested by the application if it finds the applicant is fit, willing and able to perform such transportation properly and to conform to applicable provisions of this chapter and the rules, regulations and requirements of the department hereunder, and that such transportation is required by the public convenience and necessity; otherwise such application shall be denied.

(3) The department may also issue a certificate to engage in temporary air transportation for such limited periods as may be required by the public convenience and necessity if it finds after notice and hearing that the applicant is fit, willing and able to perform such transportation and to conform to the provisions of this chapter and the rules, regulations and requirements of the department hereunder.

(4) Each certificate issued hereunder shall specify the terminal and intermediate points between which the carrier is authorized to provide air transportation and the service to be rendered, and the department may impose such reasonable terms, conditions and limitations as the public interest may require *provided such limitations are ordered in accordance with this Act.*

(5) Each certificate shall be effective from the date specified therein and shall continue in effect until suspended, surrendered or revoked as hereinafter provided, or until the department shall certify that operation thereunder has ceased. If issued for a limited or temporary period of time the certificate shall continue in effect until the expiration thereof.

(6) The department, upon petition or complaint, or upon its own initiative, after notice and hearing *in accordance with this Act,* may alter, amend, modify or suspend any such certificate in whole or in part if the public convenience and necessity so require, or may revoke any such certificate in whole or in part for failure to comply with any provision of this chapter or any order, rule or regulation issued hereunder or any term, condition or limitation of such certificate.

(7) No certificate may be transferred except upon proper application and hearing and approval by the department as being consistent with the public interest.

(8) No air carrier shall abandon any route or part thereof for which a certificate has been issued by the department unless, upon application of such carrier, after notice and hearing, the department shall find such abandonment to be in the public interest. Any interested person may intervene and be heard in opposition or support of such abandonment. The department may by order, regulation or otherwise authorize such temporary suspension of service as may be in the public interest.

(9) No certificate shall confer any property, proprietary or exclusive right in the use of any airspace, airport, state airway or other air navigation facility.

(10) No certificate shall be required for the transportation of United States mail unless passengers or freight are also transported.

(11) The jurisdiction of the department shall extend only to common carriers engaged in, or who seek to engage in, intrastate commerce. Orders of the department shall be served upon all parties to said proceedings and shall become effective as determined by the department. Any party to such hearing may, upon proper petition, be granted a rehearing if such petition is filed within thirty (30) days after the issuance of the order. Upon granting of any rehearing the department may suspend prior orders until the petition for rehearing is determined.

Section 89. KRS 183.580 is amended to read as follows:

All common carriers subject to KRS 183.530 to KRS 183.620 shall before engaging in business file with the department and keep open to public inspection at its offices and stations schedules showing all rates, fares and charges for transportation of passengers, or property between different points on its route or routes, and also between points on its own route and on the routes of other common carriers when a through route and joint rate have been established. No intrastate common carrier shall accept or receive any person or property for transportation until the requirements of KRS 183.530 to 183.620 have been complied with and no such carrier shall charge, demand, collect, or receive a greater or less or different remuneration for such transportation, or for any service in connection therewith than the rates, fares and charges which have been legally established and filed with the department; nor shall any such carrier refund or remit in any manner or by any device, any portion of the rates, fares and charges so established when service is rendered in accordance with published tariffs. The department is vested with the power and authority to supervise, regulate and fix, alter and determine just, fair, reasonable and sufficient rates, fares, and charges and classifications. No order of the department affecting rates, fares and charges shall issue except after notice and hearing on the same *in accordance with this Act* and any interested party may appear and take part in any such proceedings either in person or by attorney.

Section 90. KRS 183.620 is amended to read as follows:

(1) The applicant or the holder of any certificate shall have the right of an appeal from any action of the department by filing within forty (40) days after the rendition of the order of the department a petition of appeal with the clerk of the Franklin Circuit Court *in accordance with this Act.* Such petition shall state completely the grounds upon which the review is sought, and shall assign all errors relied on and shall be accompanied by a copy of the record certified by the department, or an abstract thereof, if agreed to by all parties to the hearing before said department.

(2) The person appealing shall furnish copies of the petition to each person who is a party to the hearing before such department.

(3) Summons shall be issued upon the petition directing the adverse party or parties to file answer within fifteen (15) days after service thereof.

(4) No new or additional evidence may be introduced in the circuit court except as to fraud or misconduct of some person engaged in the administration of KRS 183.530 to 183.620, or affecting the order, ruling or award, but the court shall otherwise hear the case upon the certified record or abstract thereof, and shall dispose of the case in a summary manner, its review being limited to determining whether or not:

(a) The department acted without or in excess of its power;

(b) The order, decree or award was secured by fraud;

(c) The order, decision or award is not in conformity with provisions of KRS 183.530 to 183.620;

(d) The finding of facts in issue is not supported by any substantial evidence.

(5) The department and each party shall have the right to appear in such review proceedings. The court shall enter judgment confirming, modifying or setting aside the order, decision or award, or in its discretion remanding the case to the department for proceedings in conformity with direction of the court.

(6) The court may advance a judgment, and upon a sufficient showing of facts, remand the cause to the department.

(2) (7) Any party may appeal from the decision of the circuit court to the Court of Appeals of Kentucky. Such appeals from the order of the department or to the Court of Appeals shall have precedence over other cases pending.

Section 91. KRS 186.059 is amended to read as follows:

(1) Operation of a commercial vehicle at a gross weight in excess of the declared gross weight at which such vehicle is registered under subsections (8), (9) or (10) of KRS 186.050, shall make any owner or operator, otherwise entitled to such reduced fee set out therein ineligible for same for the entire license year.

(2) The bureau, upon receipt of information substantiated by affidavit, that any owner or operator is operating a motor vehicle in excess of the gross weight at which it is registered under subsections (8), (9) or (10) of KRS 186.050, may issue notice to such owner or operator advising that he is ineligible for such reduced fee or, that the privilege is revoked for the current license year. Within thirty (30) days of the date of the issuance of such notice any affected owner or operator may request a hearing before the bureau to be conducted in accordance with the provisions of KRS chapter 281 and the rules and regulations adopted thereunder. Failure to request a hearing within thirty (30) days of the date of the issuance of such notice shall make the ruling absolute and the owner or operator shall be liable for the payment of the fees applicable under KRS 186.050 (3) for the entire license year.

(3) In the event a hearing is requested in accordance with the provisions of subsection (2) of this section, the owner or operator shall not be entitled to the reduced fee during the interim between the application for hearing and the bureau's determination, unless he shall file with the bureau a bond in the amount of $500 per vehicle to be applied to the payment of any taxes which the bureau, as a result of such hearing, may determine are due the commonwealth.

(4) The question for determination at any hearing held at the request of an owner or operator receiving such notice from the bureau shall be whether or not such owner or operator has operated a commercial vehicle in excess of the declared gross weight at which it is registered under subsections (8), (9) or (10) or KRS 186.050. The burden of proof shall be upon the bureau to show such unlawful operation. Any final determination of the bureau shall be subject to appeal to the Franklin Circuit Court and to the Court of Appeals in accordance with the provisions of KRS 281.780 and 281.785, and any bond posted with the bureau shall be held pending the judgment of the highest court to which the matter is appealed.

Section 92. KRS 186.070 is amended to read as follows:

(1) Every manufacturer of, or dealer in, motor vehicles in this state shall register with each county clerk in which his principal office or place of business and branch office or sub-agent or agency is located, and pay an annual registration fee of $25.00 to each clerk. Upon receipt of this fee, the clerk shall issue the manufacturer or dealer a certificate of registration and one (1) dealer plate. Every manufacturer or dealer registered under this section shall be furnished additional dealer's plates upon the payment of $12.50 for each

plate so desired. One dollar ($1.00) shall be retained for each plate so desired. A motor vehicle bearing dealer's plates may be used on the highways by the licensed dealer or by a bona fide salesman or employe of the dealer at all times, or by any manufacturer or dealer licensed as provided above in transporting any motor vehicle over the highways of this state to his place of retail business from a manufacturer or wholesale dealer in motor vehicles. Any dealer in motor vehicles may allow any bona fide customer or the customer's employes to use the dealer's tag on the motor vehicle that is being demonstrated. This provision shall be limited to one (1) trip or demonstration to the same prospective customer.

(2) Each manufacturer and dealer when making application for dealer's plates shall file a verified statement with the clerk, giving the name and address of each member of the firm and each bona fide salesman or employe entitled to the use of the plates for demonstration purposes only. When any bona fide salesman or employe so registered is no longer in the employ of the firm, an amended verified statement shall be filed with the clerk showing that fact, and when any additional salesmen or employes are employed, an amended verified statement showing their names and addresses shall be filed with the clerk so that the records in the clerk's office will at all times show the bona fide salesmen and employes actually in the service of the registered dealer or manufacturer.

(3) The license of any dealer or manufacturer may be revoked *or suspended* by the Department of Transportation for the violation of any of the provisions of this section *after notice and opportunity for hearing in accordance with this Act.* Such manufacturer or dealer shall be given an opportunity to be heard in defense of the charge that he has violated any of the provisions of this section and *The* the Department of Transportation shall adopt and promulgate rules and regulations governing the procedure for such revocation. Provided, however, That any manufacturer or dealer whose license is so revoked may prosecute an appeal to the Kentucky board of tax appeals as provided by law. Such manufacturer or dealer whose license has been suspended is prohibited from engaging in the business of selling or buying motor vehicles. The license of any manufacturer or dealer shall be revoked for a period of one (1) year and his dealer's plates canceled in the event he violates any of the provisions of this section during this suspension period or has been suspended by the department more than twice for violations of this section. At the end of the revocation or suspension period the manufacturer or dealer whose license has been revoked or suspended and dealer's plates canceled may follow the provisions of this section and again be registered and secure dealer's plates from the clerk.

(4) The Department of Transportation shall be responsible for the administration of this section, and is empowered to promulgate rules and regulations pertaining to the administration thereof.

Section 93. KRS 186.076 is amended to read as follows:

The department of transportation may revoke the license of any motor vehicle dealer who acquires a used motor vehicle for cash, trade-in, or in any other manner, and fails to have the registration transferred to him prior to the time the vehicle is sold or otherwise transferred to another person, or within ten (10) days after acquired, whichever may be sooner. Such person shall be afforded a full opportunity to defend himself against any such charge under rules and regulations adopted by the department of revenue governing *The* the procedure for *scheduling and conducting* such revocation action *shall be in accordance with this Act.* Provided, however, That such dealer shall have the right to appeal any order of revocation entered by the department of transportation to the Kentucky board of tax appeals as provided by law.

Section 94. KRS 186.565 is amended to read as follows:

(1) Any person who operates a motor vehicle in this state is deemed to have given his consent to a chemical test of his blood, breath, urine or saliva for the purpose of determining the alcoholic content of his blood, if arrested for any offense arising out of acts alleged to have been committed while the person was driving or in actual physical control of a motor vehicle in this state while under the influence of intoxicating beverages. The test shall be administered at the direction of a law enforcement officer having reasonable grounds to believe the person to have been driving or in actual physical control of a motor vehicle in this state while under the influence of intoxicating beverages. The law enforcement agency by which the officer is employed shall designate which of the aforesaid tests shall be administered, and provide necessary equipment.

(2) Any person who is dead, unconscious or who is otherwise in a condition rendering him incapable of refusal, is deemed not to have withdrawn the consent provided in subsection (1) of this section and the test may be given.

(3) If a person under arrest refuses upon the request of a law enforcement officer to submit to a chemical test designated by the law enforcement agency as provided in subsection (1) of this section, the requesting officer shall warn the person of the effect of his refusal to submit to the test. If the person again refuses, none shall be given, but the Department of Transportation, upon the receipt of a sworn report of the law enforcement officer that he had reasonable grounds to believe the arrested person had been driving or was in actual physical control of a motor vehicle in this state while under the influence of intoxicating beverages, that the person refused to submit to the test upon the request of the law enforcement officer, and that the person again refused to submit to the test after the law enforcement officer warned him of the effect of his

refusal, shall *after notice and hearing in accordance with subsection (4) of this section* revoke the license or permit of the person refusing to take the test for a period of not more than six (6) months; or if the person arrested be a nonresident, his operating permit or privilege shall *likewise* be revoked for not more than six (6) months; or if the person is a resident without a license or permit to operate a motor vehicle in this state, the department shall *likewise* deny to the person the issuance of a license or permit for a period of six (6) months after the date of the alleged violation, subject to review as hereinafter provided.

(4) Upon revoking the license or permit to drive or nonresident operating privilege of any person, or *Upon* upon determining that *the license or permit to drive or nonresident operating privilege of any person should be revoked or* the issuance of a license or permit shall be denied to the person, the Secretary of the Department of Transportation shall immediately notify the person in writing *and provide an opportunity for* by mailing the notice to the person by certified or registered mail to the last known residence address of the person, or, if the address is unknown, to the last known business address of the person. Within ten (10) days after receiving the notice, the person may request a hearing before the secretary. Request for a hearing does not suspend the order of revocation. The hearing shall be scheduled as early as practical within not to exceed twenty (20) days after receipt of such request at a time and place designated by the secretary *and shall be conducted in accordance with this Act.* The notice of hearing shall be served in the same manner as the notice of revocation or denial of a license. For the purpose of the hearing, the secretary may appoint an examiner who *pursuant to this Act* shall have power to preside at the hearing. Upon the hearing the secretary or his duly authorized agent may administer oaths and may issue subpoenas for the attendance of witnesses and the production of relevant books and papers and may require a re-examination of the licensee. The scope of the hearing shall cover the issues of whether a law enforcement officer had reasonable grounds to believe the person had been driving or was in actual physical control of a motor vehicle in this state while under the influence of intoxicating beverages, whether the person was placed under arrest, and whether he refused to submit to the test upon request of the officer. All testimony at the hearing shall be recorded. The secretary's *final order shall be made and the person given a copy thereof in accordance with this Act* ruling shall include a statement of the findings of fact, rulings of law and other matters pertinent to the question at issue. The commissioner within ten (10) days after the completion of the hearing shall order that the revocation or determination that there should be a denial of issuance either be rescinded or sustained. The commissioner shall immediately notify the person of his ruling in writing by certified or registered mail .

(5) If the revocation or determination that there should be a denial of issuance is sustained after the hearing, the person whose license or permit to drive or nonresident operating privilege has been revoked, or to whom a license or permit is denied, under the provisions of this section, may file a petition in the circuit court of the county in which the person resides or in the circuit court of the county in which the alleged offense was committed or in Franklin Circuit Court to review the final order of revocation or denial by the secretary *in accordance with this Act.* within twenty (20) days after the final order has been issued. The appeal does not suspend the order of revocation unless a stay thereof is allowed by the court pending a final determination of the review. If a stay is allowed, and the final judgment of the court finds against the person appealing, the period of revocation is determined by taking into account the period of time during which the revocation was effective before the stay was granted. The Department of Transportation shall file with its answer a copy of the commissioner's ruling and a transcript of evidence. The court's review is limited to whether the commissioner's ruling is supported by substantial evidence and whether his action is arbitrary or capricious. An appeal to the Court of Appeals does not suspend the order of revocation unless a stay thereof is allowed by the court pending a final determination of the review. If a stay is allowed, and the final judgment of the court finds against the person appealing, the period of revocation is determined by taking into account the period of time during which the revocation was effective before the stay was granted.

(6) When it has been finally determined that a nonresident's privilege to operate a motor vehicle in this state has been revoked, the department shall give information in writing of the action taken to the motor vehicle administrator of the state of the person's residence and of any state in which he has a license.

Section 95. KRS 186.570 is amended to read as follows:

(1) The department or its agent designated in writing for that purpose may deny any person a license or may immediately suspend the license of any person, or, in the case of a nonresident, withdraw the privilege of operating a motor vehicle in this state, *only after notice and opportunity for hearing in accordance with this Act* with or without hearing , and with or without receiving a record of conviction of that person of a crime, whenever the department has reason to believe that:

(a) That person has committed any offenses for the conviction of which mandatory revocation of license is provided by KRS 186.560.

(b) That person has, by reckless or unlawful operation of a motor vehicle, caused or contributed to an accident resulting in death or injury or serious property damage.

(c) That person is afflicted with mental or physical infirmities rendering it unsafe for him to drive upon the highways.

(d) That person is an habitually reckless or negligent driver of a motor vehicle or has committed a serious violation of the motor vehicle laws.

(e) That person has been issued a license without making proper application for it, as provided in KRS 186.412 and regulations properly issued pursuant to it.

(f) A person required by KRS 186.480 to take an examination has been issued a license without first having passed the examination.

(g) That person has been convicted of assault and battery resulting from the operation of a motor vehicle.

(2) The department may suspend the license of any resident upon receiving notice of the conviction of that person in another state of an offense there which if committed in this state would be grounds for the suspension or revocation of an operator's license. If a person so convicted is not the holder of a Kentucky license, the department shall deny him a license for the same period as if he had possessed a license and license had been suspended. *No such suspension, revocation, denial or withdrawal shall be ordered except after notice and opportunity for hearing as provided in subsection (1).* The department may, upon receiving a record of the conviction in this state of a nonresident driver of a motor vehicle of any offense under the motor vehicle laws, forward a notice of that person's conviction to the proper officer in the state of which the person so convicted is a resident. The Department of Public Safety is forbidden from suspending or revoking a motor vehicle or motorcycle operator's license or assessing points or any other form of penalty against the holder thereof for speeding violations or speeding convictions from other states. This subsection shall apply only to speeding violations and shall not apply to other motor vehicle offenses, nor shall this section apply to any new applicant for a Kentucky motor vehicle operator's license.

(3) Each license which has been cancelled, suspended or revoked shall be surrendered to and retained by the department. At the end of the period of cancellation, suspension or revocation the license may be returned to the licensee.

Section 96. KRS 187.600 is amended to read as follows:

(1) Any person in whose name more than twenty-five (25) motor vehicles are registered may qualify as a self-insurer by obtaining a certificate of self-insurance issued by the department as provided in subsection (2) of this section.

(2) The department may, in its discretion, upon the application of such a person, issue a certificate of self-insurance when it is satisfied that such person is possessed and will continue to be possessed of ability to pay judgments obtained against such person.

(3) Upon not less than five (5) days' notice and a hearing pursuant to *this Act* such notice , the department may upon reasonable grounds cancel a certificate of self-insurance. Failure to pay any judgment within thirty (30) days after such judgment shall have become final shall constitute a reasonable ground for the cancellation of a certificate of self-insurance.

Section 97. KRS 189.271 is amended to read as follows:

(1) Notwithstanding any other provision of laws, the department of transportation may issue special permits to the owners, operators or lessees of motor vehicles for the purpose of hauling industrial materials whose gross weight, including vehicle and load, exceeds the limits prescribed by this chapter or which in other respects fail to comply with the requirements of this chapter. A separate permit shall be required for each vehicle. Such permits shall be issued for specified materials only and shall designate the portions of the state primary road system over which such vehicle may operate pursuant to the permit. Such permit shall be issued for a stated period of time not to exceed one (1) year and shall be upon such terms and conditions as the department may, in its discretion, require in the public interest. The department shall require, as a condition to the issuance of the permit, that the applicant pay a reasonable fee, to be fixed by the department, and shall require that an applicant convicted under provisions of KRS 189.990(2)(a) two or more times within a five-year period give bond, with approved surety, in an amount not to exceed $6,000 for each vehicle to indemnify the commonwealth of Kentucky against damage to highways or bridges resulting from the operation of any motor vehicle under the authorization of such permit. The operation of any motor vehicle in accordance with the terms of any such permit shall not constitute a violation of this chapter, if the operator has the permit, or a copy of it, authenticated as the department may require, in his possession.

(2) The department shall not issue a permit under this section for a vehicle whose gross weight, including vehicle and load, exceeds the maximum gross weight as provided in KRS 189.222.

(3) After the expiration of four (4) years from June 21, 1974, the department shall not issue a permit under this section for a vehicle which does not comply with the axle weight and axle spacing requirements set forth in KRS 189.222(1).

(4) No person shall operate a motor vehicle in violation of the terms and conditions of any permit issued by the department pursuant to this section.

(5) As used in this section, industrial materials shall mean all cargo, whether divisible or indivisible, which a motor vehicle transports in the usual and ordinary course of business and shall specifically include, but not be limited to, minerals or natural resources transported by a motor vehicle.

(6) The department is hereby empowered to:

(a) Exercise general supervision of the administering and enforcement of this section.

(b) Adopt rules and regulations with respect to the issuance of a permit, including, but not limited to, rules and regulations concerning the duration of permits and weight limits for various types of vehicles, materials and highways.

(c) Adopt rules and regulations with respect to the amount, terms and conditions of the bond and the sufficiency of the surety of such bond required by this section.

(d) Issue, continue in effect, revoke, modify or deny, *in accordance with this Act and* under such conditions as the department may prescribe, permits provided for under this section.

(c) Adopt rules and regulations with respect to the amount, terms and conditions of the bond and the sufficiency of the surety of such bond required by this section.

(d) Issue, continue in effect, revoke, modify or deny, *in accordance with this Act and* under such conditions as the department may prescribe, permits provided for under this section.

Section 98. KRS 190.040 is amended to read as follows:

(1) A license may be denied, suspended or revoked on the following grounds:

(a) Proof of financial or moral unfitness of applicant;

(b) Material misstatement in application for license;

(c) Filing a materially false or fraudulent tax return as certified by the department of revenue;

(d) Willful failure to comply with any provision of this section or any rule or regulation promulgated under this chapter;

(e) Willfully defrauding any retail buyer to the buyer's damage;

(f) Willful failure to perform any written agreement with any buyer;

(g) Failure or refusal to furnish and keep in force any bond required;

(h) Having made a fraudulent sale, transaction or repossession;

(i) False or misleading advertising;

(j) Fraudulent misrepresentation, circumvention or concealment through whatsoever subterfuge or device of any of the material particulars or the nature thereof required hereunder to be stated or furnished to the retail buyer;

(k) Employment of fraudulent devices, methods or practices in connection with compliance with the requirements under the statutes of this state with respect to the retaking of goods under retail installment contracts and the redemption and resale of such goods;

(l) Having violated any law relating to the sale, distribution or financing of motor vehicles;

(m) Being a manufacturer of motor vehicles, factory branch, distributor, field representative, officer, agent or any representative whatsoever of such motor vehicle manufacturer or factory branch, who has induced or coerced or attempted to induce or coerce any automobile dealer to accept delivery of any motor vehicle or vehicles, parts or accessories therefor, or any other commodities which shall not have been ordered by said dealer;

(n) Being a manufacturer of motor vehicles, factory branch, distributor, field representative, officer, agent, or any representative whatsoever of such motor vehicle manufacturer or factory branch, who has attempted to induce or coerce or has induced or coerced, any automobile dealer to enter into any agreement with such manufacturer, factory branch or representative thereof, or to do any other act unfair to said dealer, by threatening to cancel any franchise existing between such manufacturer, factory branch or representative thereof and said dealer;

(o) Being a manufacturer, factory branch, distributor, field representative, officer, agent or any representative whatsoever of such motor vehicle manufacturer or factory branch, who has unfairly, without due regard to the equities of said dealer and without just provocation, canceled the franchise of any motor vehicle dealer. The nonrenewal of a franchise or selling agreement without just provocation or cause shall be deemed an evasion of this section and shall constitute an unfair cancellation;

(p) Being a distributor or wholesaler who makes, attempts to make or aids or abets the making of a sale of a motor vehicle to a person other than a licensed motor vehicle dealer. Nothing herein shall prevent any license holder from selling any motor vehicle to any of its employes;

(q) Being a dealer who advertises for sale a new motor vehicle unless he is a dealer operating under a franchise with a licensed manufacturer, factory branch or distributor authorizing the sale of such new motor vehicle.

(2) The licensor may without notice deny the application for a license within thirty days after receipt thereof by written notice to the applicant, stating the grounds for such denial. Upon request by the applicant whose license has been so denied, the licensor shall set the time and place of hearing a review of such denial

, the same to be heard with reasonable promptness .

(3) No license shall be *denied,* suspended or revoked except after a hearing *and notice* thereon *in accordance with this Act.* The licensor shall give the licensee at least thirty days' notice of the time and place of hearing and of the charges against it.

(4) The bureau or board may inspect the pertinent books, letters, records and contracts of a licensee.

(5) If a licensee is a firm or corporation, it shall be sufficient cause for the denial, suspension or revocation of a license that any officer, director or trustee of the firm or corporation, or any member in case of a partnership, has been guilty of any act or omission which would be cause for refusing, suspending or revoking a license to such party as an individual. Each licensee shall be responsible for the acts of any or all of his salesmen while acting as his agent, if such licensee approved of or had knowledge of said acts or other similar acts and after such approval or knowledge retained the benefit, proceeds, profits or advantages accruing from said acts or otherwise ratified said acts.

(6) Any licensee or other person in interest being dissatisfied with a final order of the bureau approved by the board may appeal to *a* the Franklin Circuit Court and to the Court of Appeals in the manner provided by KRS 281.780 to 281.785.

Section 99. KRS 190.057 is amended to read as follows:

(1) Hearings under this chapter shall be heard by the bureau and may be held at the most convenient place for the parties and witnesses. The hearing shall be conducted by an examiner of the bureau, *and notice provided, in accordance with this Act.* After the final conclusion of the hearing, the examiner shall make a report and recommended order, which report and recommended order shall contain a finding of fact and a conclusion of law, and such report and recommended order shall be served by mail upon each of the parties. Any of the parties thereto may, within twenty (20) days after the date of the report and recommended order, file and serve exceptions thereto and reasons in support thereof. Replies may be served and filed within twenty (20) days after the date of the filing of exceptions. Thereafter the commissioner shall consider and pass upon the case. When passed upon by the commissioner and approved by the board, the decision shall be served, *and notice provided, in accordance with this Act* by mail upon all parties and shall be a final order of the bureau. The report and recommended order will not become the decision of the bureau through failure to file exceptions, but in the absence of exceptions ordinarily will be taken by the bureau as the basis of its decision.

(2) A final order may be withdrawn, set aside or amended, provided, however, that such action is taken between the date of the rendition of the final order and the expiration of the time for appeal or until an appeal has been taken.

Section 100. KRS 199.670 is amended to read as follows:

(1) The department may revoke a license under KRS 199.640 for any condition which would have caused a denial of the license in the first instance. The department may refuse to issue a license in any case where the applicant is not found to possess the qualifications prescribed by the secretary.

(2) In any case where the department proposes to revoke or to refuse to issue a license, written notice *and opportunity for hearing in accordance with this Act* shall be given to the licensee or applicant , stating the proposed action and grounds therefor, and notifying the licensee or applicant that such license will be revoked or refused unless the applicant or licensee makes application for a hearing before the secretary within thirty days of such notice . If application for such hearing is made, the secretary shall set a time for the hearing, *to be scheduled and conducted in accordance with this Act.* of which ten days' notice shall be given to the licensee or applicant, and at the hearing the licensee or applicant shall be entitled to be heard in person or by counsel, and to present witnesses. Following the hearing the secretary shall render a decision in writing, setting forth his findings of fact and conclusions of law, and affirming, modifying or setting aside the findings of the department, and shall send a copy thereof to the licensee or applicant by registered mail or by certified mail, return receipt requested.

(3) The decision may be reviewed in the circuit court of the county in which the child-caring facility or child-placing agency is located, *or in such other court and in the manner provided in this Act* by action commenced within thirty days after receipt of the copy of the decision, and in such action the findings of fact made by the commissioner shall be conclusive if supported by any competent evidence .

Section 101. KRS 205.200 is amended to read as follows:

(1) A needy aged person, a needy blind person, a needy child, a needy permanently and totally disabled person, or a person with whom a needy child lives shall be eligible to receive a public assistance grant only if he has made a proper application or an application has been made on his behalf in the manner and form prescribed by regulation. No individual shall be eligible to receive public assistance under more than one category of public assistance for the same period of time.

(2) The secretary shall, by regulations, prescribe the conditions of eligibility for public assistance in conformity with the public assistance titles of the Social Security Act, its amendments and other federal acts and regulations.

(3) The secretary may by regulation prescribe as a condition of eligibility that a needy child regularly attend school, and may further by regulation prescribe the degree of relationship of the person or persons in whose home such needy child must reside.

(4) The secretary may by regulation prescribe conditions for bringing paternity proceedings or actions for support in cases of out of wedlock birth or nonsupport by a parent in the aid to families with dependent children program.

(5) Public assistance shall not be payable to or in behalf of any individual who has taken any legal action in his own behalf or in the behalf of others with the intent and purpose of creating eligibility for such assistance.

(6) The department shall promptly notify the appropriate law enforcement officials of the furnishing of aid to families with dependent children in respect to a child who has been deserted or abandoned by a parent.

(7) No person shall be eligible for public assistance payments if, after having been determined to be potentially responsible, and afforded notice and opportunity for hearing *in accordance with this Act,* he refuses without good cause:

(a) To register for employment with the state employment service,

(b) To accept suitable training, or

(c) To accept suitable employment. The secretary may prescribe by regulation standards of suitability for training and employment.

Section 102. KRS 205.231 is amended to read as follows:

(1) The secretary shall appoint one or more impartial hearing *examiners* officers according to KRS 205.160 to hear and decide upon appealed decisions.

(2) Any applicant or recipient who is dissatisfied with the decision or delay in action on his application for public assistance or the amount granted to him may appeal to a hearing *examiner* officer . On receipt of such an appeal the applicant or recipient shall be given reasonable notice and opportunity for a fair hearing *in accordance with this Act.* The applicant or recipient shall be promptly notified of the hearing *examiner's* officer's decision together with the reasons therefor.

(3) The secretary is authorized to appoint an appeal board for public assistance composed of the secretary and two other members. The secretary shall be chairman and he and one other member will constitute a quorum.

(4) Any applicant or recipient who is dissatisfied with the decision of a hearing *examiner* officer may appeal to the appeal board in the manner and form prescribed by regulation. The board may on its own motion, *and after hearing in accordance with this Act,* affirm, modify, or set aside any decision of a hearing *examiner* officer on the basis of the evidence previously submitted in such case, or direct the taking of additional evidence, or may permit any of the parties to such decision to initiate further appeals before it. The board may remove itself or transfer to another hearing *examiner* officer the proceedings on any appeal pending before a hearing *examiner* officer . The board shall promptly notify the parties to any proceedings of its findings and decisions *in accordance with this Act.*

(5) The manner in which appeals are presented and hearings and appeals conducted shall be in accordance with regulations prescribed by the secretary for determining the rights of parties, such hearings to be conducted *in accordance with this Act* in a summary manner . A complete record shall be kept of all proceedings in connection with any appeal. All testimony at any hearing upon an appeal shall be recorded either stenographically or mechanically. No hearing *examiner* officer or member of the board shall participate in any hearing in which he is an interested party.

Section 103. KRS 206.160 iS amended to read as follows:

In cases where a pension has been granted, if the commissioner of the executive department for finance and administration finds that the pension was wrongfully granted, or that the pensioner has moved out of the state, or has in any other way become no longer entitled thereto, he may drop the pensioner's name from the pension roll after first giving him thirty (30) days' notice *and hearing in accordance with this Act* by registered mail or by certified mail, return receipt requested, thus giving the pensioner an opportunity to be heard or present any evidence he may desire to offer as to why his name shall not be dropped from the pension roll .

Section 104. KRS 210.640 is amended to read as follows:

(1) No DATE Center permit shall be denied, revoked, or suspended except after notice in writing to the applicant or permit holder setting forth the particular reasons for the proposed action, and after provision for a fair hearing, *in accordance with this Act.* if demanded by the permit holder or applicant. Such notice shall be effected by registered or certified mail with return receipt requested, or by personal service. The permit holder or applicant, within ten (10) days after receipt of said notice, may request in writing a hearing,

delivering the request to the Department in person or by due course of mail. If no such request is made within the time fixed, the Department shall proceed to deny, revoke, or suspend said permit as set out in the notice of the proposed action.

(2) All hearings under this section shall be held by the Department or any *hearing examiner appointed* agent designated by it at a location designated by the Department. A transcript of the proceedings shall be reviewed by the Department, which shall enter its decision thereon.

(3) The procedure governing hearings authorized by this section shall be in accordance with rules promulgated by the Department *in accordance with this Act.* The Department or any agent designated by it may take testimony concerning any matter within its jurisdiction and may administer oaths for that purpose. The Department or its agent shall have the power to issue summons and subpoenas for any witness and subpoenas duces tecum, which shall be served and returned as provided by law. At the hearing, the applicant or permit holder shall have the right to cross-examine witnesses against him, to produce witnesses in his defense, and to appear personally or by counsel .

(4) On the basis of any such hearing, or upon the failure of the applicant or permit holder to request a hearing, the Department shall make a determination specifying its findings of fact and conclusions of law . A copy of such determination shall be sent by registered or certified mail or personally served upon the applicant or permit holder *in accordance with this Act.* The determination shall become final unless the applicant or permit holder appeals to the circuit court of Franklin County within thirty (30) days of the Department's determination and in the manner provided in *accordance with this Act* the Rules of Civil Procedure .

(5) A full and complete record shall be kept of all proceedings, and all testimony shall be *preserved and made available in accordance with this Act* reported but need not be transcribed unless the decision is appealed. Copies of the transcription may be obtained by any interested party on payment of the cost of preparing such copies .

Section 105. KRS 211.090 is amended to read as follows:

The Secretary shall:

(1) Appoint county and district boards of health pursuant to KRS 212.020 and 212.030;

(2) Hear and decide appeals from rulings, decisions and actions of the department *in accordance with this Act* , where the aggrieved party makes written request therefor to the Secretary within thirty (30) days after the ruling, decision or action complained of ;

(3) Adopt rules and regulations necessary to regulate and control all matters set forth in KRS 211.180 to the extent the regulation and control of same have not been delegated to some other agency of the Commonwealth and adopt such other rules and regulations as may be necessary to effectuate the purposes of this chapter and any other law relating to public health, except as otherwise provided by law;

(4) Issue or deny hospital licenses *in accordance with this Act;*

(5) Approve or disapprove the establishment of proposed hospital service corporations and contracts for hospital service corporations and contracts for hospital services pursuant to KRS 304.32-030;

(6) Approve or disapprove of the establishment of proposed medical service plan corporations and contract for medical services pursuant to KRS 304.32-050, 304.32-140, and 304.32-160;

(7) Enforce the provisions of KRS 311.250, 311.260, 311.375, 311.376.

Section 106. KRS 211.870 is amended to read as follows:

The Department for Human Resources may adopt regulations relating to operators of sources of radiation other than licensed practitioners of the healing arts. The regulations may include, but need not be limited to, the classification and certification of operators; examinations; standards of training and experience; curricula standards for institutions teaching persons to operate radiation sources; issuance, renewal, and revocation of certificates; and such other standards or regulations as may be appropriate for protection of health and safety. *Regulations governing procedures for the revocation of certificates shall be promulgated in accordance with this Act.*

Section 107. KRS 212.420 is amended to read as follows:

The director of health shall be a physician, qualified as a public health administrator as provided by standards set up by the secretary for human resources of Kentucky and duly qualified and licensed or eligible for license as a medical practitioner in the commonwealth of Kentucky. He shall receive an annual salary of five thousand dollars ($5,000), payable as other salaries are paid, and shall serve at the pleasure of the board. If said director of health is removed by the board he shall be notified thereof in writing, and before such removal shall become effective said director shall have ten (10) days within which to make a written request for a public hearing in regard thereto. The board shall not be required to hold a hearing unless so requested by said director. If no such request is made said removal shall become effective upon the expiration of said ten-day period. If such request is made said public hearing shall be held *in accordance with this Act* at the office of the board within *twenty (20)* ten (10) days after such request is received by the board, and said director shall not be removed until after such hearing has been held, and a decision rendered by the board. The board's decision shall be final *unless a petition for judicial review of such decision is filed in accordance with this Act.*

Section 108. KRS 213.122 is amended to read as follows:

(1) Notwithstanding the provisions of KRS 311.300 to 311.350, any hospital or institution may make application to any medical school incorporated within this state for the loan of unclaimed whole dead bodies or parts thereof for educational or scientific purposes, provided the approval of the department for human resources has first been obtained. Approval shall be granted or denied by the department for human resources on the basis of proposed use, need, qualification of personnel and adequacy of equipment and facilities, *but such denial shall be made only in accordance with this Act.*

(2) A special transit permit shall be obtained for the transportation of such dead bodies or parts thereof from the division of vital statistics of the department for human resources. Transportation from the medical school and back to the medical school and the ultimate burial of all such bodies or parts thereof shall be in accordance with the provisions of this chapter and KRS 311.340.

(3) All approved recipients shall keep a record of all bodies received by them and comply with all other regulations of the department for human resources.

Section 109. KRS 214.220 is amended to read as follows:

The state board of pharmacy may revoke any license for a third violation of any of the provisions of KRS 214.190 to 214.270, by notice in writing to the holder of the license *and opportunity for hearing in accordance with this Act.*

Section 110. KRS 216.445 is amended to read as follows:

(1) Construction or modification of health facilities or health services whether public, non-profit, private or investor owned shall not be commenced unless a certificate of need has been issued therefor, in accordance with the provisions of KRS 216.405 to 216.485.

(2) A certificate of need shall be issued or denied *after notice and hearing in accordance with this Act,* by the board only upon the approval or disapproval of the application by the regional health planning council for the area in which the project is proposed and such action further ratified by the comprehensive health planning council. In all cases where a regional or the comprehensive health planning council disapproves an application for certificate of need, council shall set forth in detail reasons for such decision. If the board's action is inconsistent with the recommendation of either of the health planning councils, regional or state, the board shall set forth in detail in writing the reason for its action.

(3) No license shall be issued to a health facility or health service which is constructed or expanded, or which institutes, expands or modifies a health care service in violation of the provisions of KRS 216.405 to 216.485.

(4) No person or group of persons shall establish, conduct, or maintain a health facility or health service to be used or offered for use, whether for profit or not, in the care of two or more persons without first obtaining an appropriate license from the board, which license shall specify the kind or kinds of health services the facility is authorized to provide.

Section 111. KRS 216A.070 is amended to read as follows:

(1) The board shall:

(a) Develop, impose, and enforce standards which must be met by individuals in order to receive a license as a nursing home administrator, which standards shall be designed to insure that nursing home administrators will be individuals who are of good character and are otherwise suitable, and who, by training or experience in the field of institutional administration, are qualified to serve as nursing home administrators;

(b) Develop and apply appropriate techniques, including examinations and investigations, for determining whether an individual meets such standards;

(c) Issue licenses to individuals determined, after application of such techniques, to meet such standards, and revoke or suspend licenses *in accordance with this Act* previously issued by the board in any case where the individual holding any such license is determined substantially to have failed to conform to the requirements of such standards;

(d) Establish and carry out procedures designed to insure that individuals licensed as nursing home administrators will, during any period that they serve as such, comply with the requirements of such standards;

(e) Receive, investigate, and take appropriate action with respect to, any charge or complaint filed with the board to the effect that any individual licensed as a nursing home administrator has failed to comply with the requirements of such standards; and

(f) Conduct a continuing study and investigation of nursing homes and administrators of nursing homes within the state with a view to the improvement of the standards imposed for the licensing of such administrators and of procedures and methods for the enforcement of such standards with respect to administrators of nursing homes who have been licensed as such.

(2) The board or any committee or member thereof or any hearing officer designated by such board, acting in an official capacity, shall have *such authority in the conduct of hearings as is granted by this Act.* the authority to issue subpoenas, compel the attendance of witnesses, administer oaths and take testimony concerning all matters within the jurisdiction of the board. Such board shall not be bound by the strict rules of evidence in the conduct of its proceedings but any determination made shall be founded upon sufficient legal evidence to sustain them.

(3) The board shall also have the authority to adopt such rules and regulations as may be necessary for the proper performance of its duties, and to take such other actions as may be necessary to enable the state to meet the requirements set forth in section 1908 of the social security act, the federal rules and regulations promulgated thereunder, and other pertinent federal authority or amendment thereto.

(4) The board may, when emergency conditions warrant, as determined by the board, authorize the issuance of a temporary permit, to an individual to practice the art of nursing home administration if it finds such authorization will not endanger the health and safety of the occupants of such nursing home. Such temporary permit shall be valid for a period determined by the board not to exceed six (6) months and shall not be renewed. The fee for a temporary permit shall be determined by regulations of the board.

Section 112. KRS 216A.090 is amended to read as follows:

Every holder of a nursing home administrator's license shall renew his license biennially by making application to the board on forms provided therefor. The board may refuse to renew any license *after notice and opportunity for hearing are given the licensee in accordance with this Act* for failure to comply with the provisions of this chapter or the rules and regulations promulgated under this chapter, including continuing education requirements.

Section 113. KRS 217.075 is amended to read as follows:

(1) No person shall sell, deliver, offer for sale, hold for sale or give away any new drug unless:

(a) An application with respect thereto has become effective under the federal act; or

(b) When not subject to the federal act unless such drug has been tested and has not been found to be unsafe for use under the conditions prescribed, recommended, or suggested in the labeling thereof, and prior to selling or offering for sale such drug, there has been filed with the department an application setting forth: Full reports of investigations which have been made to show whether or not such drug is safe for use; a full list of the articles used as components of such drug; a full statement of the composition of such drug; a full description of the methods used in, and the facilities and controls used for, the manufacture, processing, and packing of such drug; such samples of such drug and of the articles used as components thereof as the department may require; and specimens of the labeling proposed to be used for such drug.

(2) An application provided for in subsection (1) (b) of this section shall become effective on the sixtieth day after the filing thereof, except that if the department finds after due notice to the applicant and giving him an opportunity for a hearing *in accordance with this Act*, that the drug is not safe for use under the conditions prescribed, recommended, or suggested in the proposed labeling thereof, it shall, prior to the effective date of the application, issue an order refusing to permit the application to become effective.

(3) This section shall not apply:

(a) To a drug intended solely for investigational use by experts qualified by scientific training and experience to investigate the safety in drugs provided the drug is plainly labeled "For investigational use only"; or

(b) To a drug sold in the state at any time prior to the enactment of KRS 217.005 to 217.215 or introduced into interstate commerce at any time prior to the enactment of the federal act; or

(c) To any drug which is licensed under the virus, serum, and toxin act of July 1, 1902, and any amendments thereto. (42 U.S.C., 262 et seq., and amendments thereto)

(4) An order refusing to permit an application under this section to become effective may be revoked by the department.

Section 114. KRS 217.380 is amended to read as follows:

(1) The officials in charge of the enforcement of the pure food laws of this state, the secretary for human resources, the local health officers, and the duly appointed agents of all such, shall enforce the provisions of KRS 217.280 to 217.390. For this purpose such officers shall have full power at all times to enter every building, room, inclosure or premises occupied or used or suspected of being occupied or used for the preparation or manufacture for sale, or the storage, sale, distribution or transportation, of such food, and to inspect the premises and all utensils, fixtures, furniture and machinery used therein.

(2) If upon inspection there is found any violation of any of the provisions of KRS 217.280 to 217.390, or if the preparation, manufacture, packing, storage, sale, distribution or transportation of such food is being conducted in a manner detrimental to the health of the employes or to the character or quality of the food, the officer or inspector making the inspection shall report the conditions and violations to the chief pure food official, or to the secretary for human resources, or to the chief local health officer, as the case may be.

(3) The officer to whom the report is made shall thereupon issue a written order to the person responsible for the violation or condition to abate the condition or violation or to make the changes or improvements necessary to abate them, within a reasonable time as fixed in the order. Notice of the order may be served by delivering a copy to the person, or by sending a copy by certified mail, return receipt requested or by registered mail in which case the post office receipt shall be prima facie evidence that the notice was received. The person shall have the right to appear in person or by attorney before the officer issuing the notice or the person appointed by him for that purpose, within the time limited in the order *but not less than twenty (20) days after such notice has been given*, and shall be given an opportunity to be heard and to show why the order or instructions should not be obeyed. The hearing shall be under rules and regulations prescribed by the secretary for human resources *in accordance with this Act*. If after the hearing it appears that the provisions of KRS 217.280 to 217.390 have not been violated, the order shall be rescinded. If it appears that the provisions of KRS 217.280 to 217.390 are being violated, and that the person notified is responsible therefor, the previous order shall be confirmed or amended, as the facts warrant, and shall thereupon be final, but such additional time as is necessary may be granted within which to comply with the final order. If the person is not present or represented when the final order is made, notice thereof shall be given as above provided. If the person fails to comply with the first order within the time prescribed, when no hearing is demanded, or fails to comply with the final order within the time specified, the facts shall be certified to the commonwealth's, county or city attorney in whose jurisdiction the violation occurred, and such attorney shall proceed against the person for the applicable fines and penalties, and for abatement of the nuisance. The proceedings prescribed in this section for abatement of the nuisance shall not relieve the violator from prosecution in the first instance for every violation, nor from the penalties prescribed for such violation.

Section 115. KRS 217.570 is amended to read as follows:

(1) Every pesticide distributed within the state or delivered for transportation or transported in intrastate commerce or between points within the state through points outside the state shall be registered with the department; Provided, that registration is not required if a pesticide is shipped from one plant or warehouse to another plant or warehouse operated by the same person and used solely at such plant or warehouse as a constituent part to make a pesticide which is registered under the provisions of KRS 217.542 to 217.630; or if the pesticide is distributed under the provisions of an experimental use permit issued under the provisions of KRS 217.542 to 217.630 or an experimental use permit issued by EPA. All registrations shall expire on the thirty-first day of December of the calendar year for which they were issued.

(2) The applicant for registration shall file with the department, a statement containing:

(a) The name and address of the applicant and the name and address of the person whose name will appear on the label, if other than the applicant's;

(b) The name of the pesticide and its EPA registration number;

(c) A complete copy of the labeling accompanying the pesticide and a statement of all claims made or to be made for it including directions for use and a request that the pesticide be classified for non-restricted use, for restricted use, or for both as provided for in FIFRA. In the case of renewal of registration, a statement shall be required only with respect to information which is different from that furnished when the pesticide was registered or last re-registered; provided, that upon request a copy of all labels shall be furnished;

(d) Other necessary information as specified by the secretary on the application for registration form;

(e) The secretary may require a full description of the tests made and results thereof upon which the claims are based on any pesticide not registered pursuant to section 3 of FIFRA, or on any pesticide on which restrictions are being considered.

(3) The applicant desiring to register a pesticide in this state shall make application on forms furnished by the department, and, for the purposes of defraying expenses connected with the enforcement of KRS 217.542 to 217.630, shall pay to the department an annual inspection fee of twenty dollars ($20.00) for each and every brand or grade to be offered for sale in this state. There shall be issued to the registrant by the secretary a license entitling the registrant to sell all duly registered brands in this state until the expiration of the license;

(4) The secretary, when he deems it necessary in the administration of KRS 217.542 to 217.630, may require the submission of the complete formula of any pesticide including the active and inert ingredients;

(5) The secretary is authorized and empowered to refuse to register, or to cancel the registration of, any brand of pesticide as herein provided, upon satisfactory proof that the registrant has been guilty of fraudulent and deceptive practices in evasions or attempted evasions of the provisions of KRS 217.542 to 217.630 or any rules and regulations promulgated thereunder; Provided, that no registration shall be revoked or refused until

the registrant shall have been given *notice and opportunity for* a hearing by the department *in accordance with this Act*;

(6) Registrants desiring to renew registrations shall file with the department an application for renewal prior to January 1. Any registration in effect on the 31st day of December and for which a renewal application has been made and the proper fee paid shall continue in full force and effect until such time as the department has notified the applicant that the registration has been renewed, or denied;

(7) If the renewal of a pesticide registration is not filed prior to January 15 of any year, or if a new product is sold or offered for sale prior to registration an additional fee of ten dollars ($10.00) shall be assessed and added to the original fee before the registration of that pesticide is renewed or a new registration is accepted; Provided, that such additional fee shall not apply if the applicant furnishes an affidavit certifying that he did not distribute such unregistered pesticides during the period of non-registration. The payment of such additional fee is not a bar to any prosecution for doing business without proper registry;

(8) Upon certification by the administrator of EPA to register pesticides pursuant to section 24(c) of FIFRA, the secretary may register such pesticides if he determines that:

(a) Its composition is such as to warrant the proposed claims for it;

(b) Its labeling and other material required to be submitted meet with the requirements of KRS 217.542 to 217.630;

(c) It will perform its intended function, and when used in accordance with widespread and commonly recognized practice, will not cause unreasonable adverse effects on the environment; and

(d) Provided that the registration is not disapproved by the administrator of EPA.

Section 116. KRS 217.572 is amended to read as follows:

(1) Upon certification pursuant to section 24(c) of FIFRA by the administrator of EPA to register pesticides formulated to meet special local needs, the secretary shall consider the following for refusal to register, for cancellation, for suspension and for legal recourse for such pesticides:

(a) If it does not appear to the secretary that the pesticide is such as to warrant the proposed claims for it or if the pesticide and its labeling and other material required to be submitted do not comply with the provisions of KRS 217.542 to 217.630 or regulations adopted thereunder, he shall notify the applicant of the manner in which the pesticide, labeling, or other material required to be submitted fails to comply with the provisions of KRS 217.542 to 217.630 so as to afford the applicant an opportunity to make the necessary corrections. If, upon receipt of such notice, the applicant does not make the required changes, the secretary may refuse to register the pesticide *after notice and opportunity for hearing as required in KRS 217.570(5).*

(b) When the secretary determines that a pesticide or its labeling does not comply with the provisions of KRS 217.542 to 217.630 or the regulations adopted thereunder, he may cancel the registration of a pesticide after a hearing *held as required in KRS 217.570(5).*

(c) When the secretary determines that there is an imminent hazard, he may, on his own motion, *and in accordance with this Act,* suspend the registration of a pesticide without first holding a hearing but a hearing shall be held with the utmost possible expedition.

(d) Any person who will be adversely affected by such order in this section may obtain judicial review thereof by filing in the Franklin Circuit Court *in accordance with this Act.* , within thirty (30) days after the entry of such order. A petition shall be forthwith transmitted by the clerk of the court to the secretary and thereupon the secretary shall file in the court the record of the proceedings on which he based his order. The court shall have jurisdiction to affirm or set aside the order complained of in whole or in part. The findings of the secretary with respect to questions of fact shall be sustained if supported by substantial evidence when considered on the record as a whole. Upon application, the court may remand the matter to the secretary to take further testimony if there are reasonable grounds for the failure to adduce such evidence in the prior hearing. The secretary may modify his findings and his order by reason of the additional evidence so taken and shall file the additional record and any modification of the findings or order with the clerk of the court.

(2) If the secretary determines that the federally registered pesticide with respect to the use of such pesticide within this state does not warrant the proposed claims for it, or if the pesticide and its labeling and other material required to be submitted do not comply with the provisions of FIFRA or the regulations adopted thereunder, he shall advise EPA of the manner in which the pesticide, labeling, or other material required to be submitted fail to comply with the provisions of FIFRA and suggest necessary corrections.

Section 117. KRS 217.710 is amended to read as follows:

Before any violation of KRS 217.650 to 217.710 is reported to the commonwealth's, county or city attorney for institution of a criminal proceeding, the person against whom such proceeding is contemplated may be given appropriate notice and an opportunity to present his views to the department, either orally or in writing, *in accordance with this Act* with regard to such contemplated proceeding. Nothing in KRS 217.650 to 217.710 shall be construed as requiring the department to report for prosecution minor violations of KRS 217.650 to 217.710 whenever it believes that the public interest will be best served by a suitable notice of warning in writing.

Section 118. KRS 217A.080 is amended to read as follows:

(1) All poultry and rabbit products inspected at any official establishment under the authority of this chapter and found to be not adulterated, shall at the time they leave the establishment bear, in distinctly legible form, on their shipping containers and immediate containers as the department may require, the information required under subsection (14) of KRS 217A.010. In addition, the commissioner whenever he determines such action is practicable and necessary for the protection of the public, may require nonconsumer packaged carcasses at the time they leave the establishment to bear directly thereon in distinctly legible form any information required under such subsection (14).

(2) The department whenever it determines such action is necessary for the protection of the public, may prescribe:

(a) The styles and sizes of type to be used with respect to material required to be incorporated in labeling to avoid false or misleading labeling in marking or otherwise labeling any articles or poultry subject to this chapter;

(b) Definitions and standards of identity or composition for articles subject to this chapter and standards of fill of container for such articles not inconsistent with any such standards established under the federal food, drug, and cosmetic act, or under the federal poultry products inspection act, and there shall be consultation between the department and the secretary of agriculture of the United States prior to the issuance of such standards to avoid inconsistency between such standards and the federal standards.

(3) No article subject to this chapter shall be sold or offered for sale by any person in intrastate commerce, under any name or other marking or labeling which is false or misleading, or in any container of a misleading form or size, but established trade names and other marking and labeling and containers which are not false or misleading and which are approved by the department are permitted.

(4) If the commissioner has reason to believe that any marking or labeling or the size or form of any container in use or proposed for use with respect to any article subject to this chapter is false or misleading in any particular, he may direct that such use be withheld unless the marking, labeling, or container is modified in such manner as he may prescribe so that it will not be false or misleading. If the person using or proposing to use the marking, labeling or container does not accept the determination of the commissioner, such person may request a hearing *to be conducted pursuant to this Act*, but the use of the marking, labeling, or container shall, if the commissioner so directs, be withheld pending hearing and final determination by the commissioner. Any such determination by the commissioner shall be conclusive unless, within thirty (30) days after receipt of notice of such final determination, the person adversely affected thereby *petitions* appeals to the circuit court *for review in accordance with this Act* for the circuit in which such person has his principal place of business.

Section 119. KRS 217A.120 is amended to read as follows:

Before any violation of this chapter is reported by the commissioner to any commonwealth's attorney for institution of a criminal proceeding, the person against whom such proceeding is contemplated shall be given reasonable notice of the alleged violation and opportunity to present his views orally or in writing *in accordance with this Act* with regard to such contemplated proceeding. Nothing in this chapter shall be construed as requiring the commissioner to report for criminal prosecution violations of this chapter whenever he believes that the public interest will be adequately served and compliance with the chapter obtained by a suitable written notice or warning.

Section 120. KRS 217A.140 is amended to read as follows:

(1) The department shall, by regulation and under such conditions, including requirements as to sanitary standards, practices, and procedures, as it may prescribe, exempt from specific provisions of this chapter with respect to processing of poultry and rabbit or poultry and rabbit products solely for intrastate commerce and distribution of poultry and rabbit or poultry and rabbit products only in such commerce:

(a) Retail stores and restaurants with respect to inspected poultry and rabbit products sold directly to consumers in individual retail stores and restaurants, if the only processing operation performed by such retail stores and restaurants is the cutting up of inspected poultry and rabbit products on the premises where such sales to consumers are made;

(b) For such period of time as the commissioner determines that it would be impracticable to provide inspection and the exemption will aid in the effective administration of this chapter, any person engaged in the processing of poultry and rabbit or poultry and rabbit products and the poultry and rabbit or poultry and rabbit products processed by such person: Provided, however, That no such exemption shall continue in effect more than 120 days after June 18, 1970;

(c) Persons slaughtering, processing, or otherwise handling poultry and rabbit or poultry and rabbit products which have been or are to be processed as required by recognized religious dietary laws, to the extent that the commissioner determines necessary to avoid conflict with such requirements while still effectuating the purposes of this chapter;

(d) The slaughtering by any person of poultry and rabbits of his own raising, and the processing by him and transportation of the poultry and rabbit products exclusively for use by him and members of his household and his nonpaying guests and employes;

(e) The custom slaughter by any person of poultry and rabbits delivered by the owner thereof for such slaughter, and the processing by such slaughterer and transportation of the poultry and rabbit products exclusively for use, in the household of such owner, by him and members of his household and his nonpaying guests and employes: Provided, That such custom slaughterer does not engage in the business of buying or selling any poultry and rabbit products capable of use as human food;

(f) Poultry products slaughtered or processed under the federal poultry products act or rabbits slaughtered or processed under the federal inspection or rabbits processed or slaughtered under inspection of another state whose laws and program are acceptable to the department.

(2) In addition to the specific exemptions authorized in subsection (1) of this section, the commissioner shall, when he determines that the protection of consumers from adulterated or misbranded poultry and rabbit products will not be impaired by such action, provide by regulation, consistent with subsection (3) of this section, for the exemption of the operation and products of small enterprises (including poultry and rabbit producers), not exempted under subsection (1) of this section, which are engaged in slaughtering and/or cutting up poultry and rabbits for distribution as carcasses or parts thereof, solely for distribution within this commonwealth, from such provisions of this chapter as he deems appropriate, while still protecting the public from adulterated or misbranded products, under such conditions, including sanitary requirements, as he shall prescribe to effectuate the purposes of this chapter.

(3) The adulteration and misbranding provisions of this chapter, other than the requirement of the inspection legend, shall apply to articles which are exempted from inspection under this section.

(4) The commissioner may by order *after notice and hearing in accordance with this Act* suspend or terminate any exemption of this section with respect to any person whenever he finds that such action will aid in effectuating the purposes of this chapter.

Section 121. KRS 217A.160 is amended to read as follows:

(1) The commissioner may (for such period, or indefinitely, as he deems necessary to effectuate the purposes of this chapter) refuse to provide, or withdraw, inspection service under this chapter with respect to any establishment if he determines, after *notice and* opportunity for a hearing *in accordance with this Act* is accorded to the applicant for, or recipient of, such service, that such applicant or recipient is unfit to engage in any business requiring inspection under this chapter because the applicant or recipient or anyone responsibly connected with the applicant or recipient, has been convicted, in any federal or state court, within the previous ten (10) years of

(a) Any felony or more than one misdemeanor under any law based upon the acquiring, handling, or distributing of adulterated, mislabeled, or deceptively packaged food or fraud in connection with transactions in food; or

(b) Any felony, involving fraud, bribery, extortion, or any other act or circumstances indicating a lack of the integrity needed for the conduct of operations affecting the public health. For the purpose of this subsection a person shall be deemed to be responsibly connected with the business if he was a partner, officer, director, holder, or owner of ten per cent (10%) or more of its voting stock or employe in a managerial or executive capacity.

(2) Upon the withdrawal of inspection service from any establishment for failure to destroy condemned poultry and rabbit products as required under KRS 217A.060, or other failure of an official establishment to comply with the requirements as to premises, facilities, or equipment, or the operation thereof, as provided in KRS 217A.070, or the refusal of inspection service to any applicant therefor because of failure to comply with any requirements under KRS 217A.070, the applicant for, or recipient of, the service shall, upon request, be afforded *notice and* opportunity for a hearing *in accordance with this Act* with respect to the merits or validity of such action; but such withdrawal or refusal shall continue in effect unless otherwise ordered by the commissioner.

(3) The determination and order of the commissioner when made after opportunity for hearing, with respect to withdrawal or refusal of inspection service under this chapter shall be final and conclusive unless the affected applicant for, or recipient of, inspection service files application for judicial review within thirty (30) days after the effective date of such order in the appropriate court as provided in KRS 217A.190. Judicial review of any such order shall be upon the record upon which the determination and order are based.

Section 122. KRS 217A.200 is amended to read as follows:

(1) The commissioner or his authorized representative shall also have power:

(a) To gather and compile information concerning and to investigate from time to time the organization, business, conduct, practices, and management of any person engaged in intrastate commerce, and the relation thereof to other persons;

(b) To require, by general or special orders, persons engaged in intrastate commerce, or any class of them, or any of them to file with the commissioner, in such form as the commissioner may prescribe, annual or special, or both annual and special, reports or answers in writing to specific questions, furnishing to the commissioner such information as he may require as to the organization, business, conduct, practices, management, and relation to other persons of the person filing such reports or answers in writing. Such reports and answers shall be made under oath, or otherwise, as the commissioner may prescribe, and shall be filed with the commissioner within such reasonable period as the commissioner may prescribe, unless additional time be granted in any case by the commissioner.

(2) (a) For the purposes of this chapter the commissioner or his authorized representative shall at all reasonable times have access to, for the purpose of examination, and the right to copy, any documentary evidence of any person being investigated or proceeded against, and may require by subpoena the attendance and testimony of witnesses and the production of all documentary evidence of any person relating to any matter under investigation. The commissioner may sign subpoenas and may administer oaths and affirmations, examine witnesses, and receive evidence.

(b) Such attendance of witnesses, and the production of such documentary evidence, may be required at any designated place of hearing. *Any hearing held under the provisions of this chapter shall be scheduled and conducted in accordance with this Act.* In case of disobedience to a subpoena the commissioner may invoke the aid of any court designated in KRS 217A.190 in requiring the attendance and testimony of witnesses and the production of documentary evidence.

(c) Any of the courts designated in KRS 217A.190 within the jurisdiction of which such inquiry is carried on may, in case of contumacy or refusal to obey a subpoena issued to any person, issue an order requiring such person to appear before the commissioner or to produce documentary evidence if so ordered, or to give evidence touching the matter in question; and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(d) The commissioner may order testimony to be taken by deposition in any proceeding or investigation pending under this chapter at any stage of such proceeding or investigation. Such depositions may be taken before any person designated by the commissioner and having power to administer oaths. Such testimony shall be reduced to writing by the person taking the deposition, or under his direction and shall then be subscribed by the deponent. Any person may be compelled to appear and depose and to produce documentary evidence in the same manner as witnesses may be compelled to appear and testify and produce documentary evidence before the commissioner as hereinbefore provided.

(e) Witnesses summoned before the commissioner shall be paid the same fees and mileage that are paid witnesses in the courts of this commonwealth, and witnesses whose depositions are taken and the persons taking the same shall severally be entitled to the same fees as are paid for like services in such courts.

(c) (f) No person shall be excused from attending and testifying or from producing books, papers, schedules of charges, contracts, agreements, or other documentary evidence before the commissioner or in obedience to the subpoena of the commissioner whether such subpoena be signed or issued by him or his delegate, or in any cause or proceeding, criminal or otherwise, based upon or growing out of any alleged violation of this chapter, or of any amendments thereto, on the ground or for the reason that the testimony or evidence, documentary or otherwise, required of him or it may tend to incriminate him or it or subject him or it to a penalty or forfeiture; but no individual shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he is compelled, after having claimed his privilege against self-incrimination, to testify or produce evidence, documentary or otherwise, except that any individual so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying.

Section 123. KRS 217B.070 is amended to read as follows:

(1) No person shall engage in the business of applying pesticides to the lands of another within this state at any time without a pesticide applicator's license issued by the department. The department shall require an annual fee of $25.00 for each pesticide applicator's license issued and, in addition, an inspection fee of $10.00 for each aircraft to be licensed and $10.00 for each piece of ground equipment to be licensed. Should any equipment fail to pass inspection under KRS 217B.160, making it necessary for a second inspection to be made, the department shall require an added inspection fee of $5.00. In addition to the required inspection, unannounced inspections may be made without charge to determine if equipment is properly calibrated and maintained in conformance with laws and regulations.

(2) Application for a license shall be made in writing to the department on a designated form obtained from the department. Each application for a license shall contain information regarding the applicant's qualifications and proposed operations, license classification or classifications the applicant is applying for, and shall include the following:

(a) The full name of the person applying for the license;

(b) If the applicant is an individual, receiver, trustee, firm, partnership, association, corporation, or other organized group of persons whether or not incorporated, the full name of each member of the firm or partnership, or the names of the officers of the association, corporation, or group;

(c) The principal business address of the applicant in the state and elsewhere;

(d) The name and address of a person, who may be the secretary of state, whose domicile is in the state, and who is authorized to receive and accept services of summons and legal notice of all kinds for the applicant;

(e) The model, make, horsepower, and size of any equipment used by the applicant to apply pesticides;

(f) Any other necessary information prescribed by the department.

(3) The department shall require an applicant for a license to show upon examination that he possesses adequate knowledge concerning the proper use and application of pesticides in the classifications he has applied for, manually or with the various equipment that he may have applied for a license to operate. The examination shall require a working knowledge of:

(a) The proper use of the equipment.

(b) The hazards that may be involved in applying pesticides, including:

1. The effect of drift of the pesticides on adjacent and nearby lands and other nontarget organisms;

2. The proper meteorological conditions for the application of pesticides and the precautions to be taken therewith;

3. The effect of the pesticides on plants or animals in the area, including the possibility of damage to plants or animals or the possibility of illegal pesticide residues resulting on them;

4. The effect of the application of pesticides to wildlife in the area, including aquatic life;

5. The identity and classification of pesticides used and the effects of their application in particular circumstances;

6. The likelihood of contamination of water or injury to persons, plants, livestock, pollinating insects, and vegetation.

(c) Calculating the concentration of pesticides to be used in particular circumstances.

(d) Identification of pests to be controlled by common name only and the damages caused by such pests.

(e) Protective clothing and respiratory equipment required during the handling and application of pesticides.

(f) General precautions to be followed in the disposal of containers as well as the cleaning and decontamination of the equipment which the applicant proposes to use.

(g) Applicable state and federal pesticide laws and regulations.

(4) If the department finds the applicant qualified to apply pesticides in the classifications he has applied for and, if the applicant files the bond or insurance required under KRS 217B.130, and if the applicant applying for a license to engage in aerial application of pesticides has met all of the requirements of the federal aviation agency and the aeronautics commission of this state to operate the equipment described in the application, the department shall issue a pesticide applicator license limited to the classifications for which he is qualified, which shall expire at the end of the calendar year of issue unless it has been revoked or suspended prior thereto by the department for cause *after notice and opportunity for hearing in accordance with this Act* or the financial security required under KRS 217B.130 is not dated to expire at an earlier date, in which case said license shall be dated to expire upon expiration date of said financial security.

Section 124. KRS 217B.103 is amended to read as follows:

(1) The department may suspend for not longer than ten (10) days, pending inquiry, and, after *notice and* opportunity for a hearing *in accordance with this Act*, the department may deny, suspend, revoke, or modify the provision of any license issued under KRS 217B.100 if it finds that the applicant or licensee or his employe has committed any of the following acts, each of which is declared to be a violation of this section:

(a) Made false or fraudulent claims through any media, misrepresenting the effect of materials or methods to be utilized or sold;

(b) Made a pesticide recommendation not in accordance with the label registered pursuant to KRS 217.540 to 217.640;

(c) Violated any provision of this chapter or any rule or regulation adopted by the department or of any lawful order of the department;

(d) Failed to pay the original or renewal license fee when due, and continue to sell restricted use pesticides without paying the license fee, or sold restricted use pesticides without a license;

(e) Was guilty of gross negligence, incompetency or misconduct in acting as a pesticide dealer;

(f) Refused or neglected to keep and maintain the records required by this chapter, or to make reports when and as required; or

(g) Made false or fraudulent records, invoices, or reports;

(h) Used fraud or misrepresentation in making an application for a license or renewal of a license, or in selling or offering to sell restricted use pesticides;

(i) Refused or neglected to comply with any limitations or restrictions on or in a duly issued license;

(j) Aided or abetted a licensed or an unlicensed person to evade the provisions of this chapter, combined or conspired with such a licensed or unlicensed person to evade the provisions of this chapter, or allowed one's license to be used by an unlicensed person;

(k) Impersonated any state, county, or city inspector or official;

(l) Stored or disposed of containers or pesticides by means other than those prescribed on the label or adopted regulations.

(2) Any licensee whose license is revoked under the provisions of this section shall not be eligible to apply for a new license hereunder until such time has elapsed from the date of the order revoking said license as established by the department, not to exceed two (2) years, or if an appeal is taken from said order or revocation, not to exceed two (2) years from the date of the order or final judgment sustaining said revocation.

Section 125. KRS 217B.120 is amended to read as follows:

The department may suspend, pending inquiry, for not longer than ten (10) days, and, after *notice and* opportunity for a hearing *in accordance with this Act*, may deny, suspend, revoke, or modify the provision of any applicator's, operator's or consultant's license issued under this chapter, if it finds that the applicant or licensee has committed any of the following acts, each of which is declared to be a violation of this chapter:

(1) Made false or fraudulent claims through any media, misrepresenting the effect of materials or methods to be utilized;

(2) Made a pesticide recommendation or application not in accordance with the label registered by the department under KRS 217.540 to 217.640;

(3) Applied known ineffective or improper materials;

(4) Operated faulty or unsafe equipment;

(5) Operated in a faulty, careless, or negligent manner;

(6) Refused or, after notice, neglected to comply with the provisions of this chapter, the rules adopted hereunder, or of any lawful order of the department;

(7) Refused or neglected to keep and maintain the records required by this chapter, or to make reports when and as required;

(8) Made false or fraudulent records, invoices, or reports;

(9) Engaged in the business of the application of a pesticide without having a licensed applicator or operator in direct "on-the-job" supervision;

(10) Operated unlicensed equipment;

(11) Used fraud or misrepresentation in making an application for a license or renewal of a license;

(12) Refused or neglected to comply with any limitations or restrictions on or in a duly issued license or permit;

(13) Aided or abetted a licensed or an unlicensed person to evade the provisions of this chapter, combined or conspired with such a licensed or an unlicensed person to evade the provisions of this chapter, or allowed one's license to be used by an unlicensed person;

(14) Made false or misleading statements during or after an inspection concerning any infestation or infection of pests found on land; or

(15) Impersonated any state, county, or city inspector or official.

Section 126. KRS 217B.220 is amended to read as follows:

The department may issue subpoenas *in accordance with this Act* to compel the attendance of witnesses and/or production of books, documents, and records anywhere in the state in any hearing affecting the authority or privilege granted by a license or permit issued under the provisions of this chapter.

Section 127. KRS 217C.040 is amended to read as follows:

The secretary shall adopt rules and regulations regulating the production, transportation, processing, handling, sampling, examination, grading, labeling, standards of identity, and sale of milk and milk products; the inspection of dairy herds, dairy farms, and milk plants; the issuing and revocation of permits to milk producers, haulers, transfer stations, processing plants, pasteurization plants, and distributors; the procedures for selection of advisory committee nominees; and regulating such other matters relating to milk and milk products as may be necessary to protect the public health. The secretary shall adopt separate regulations regulating Grade A milk products and milk for manufacturing purposes. *Rules and regulations governing any licensing or administrative adjudicatory proceedings shall be subject to this Act.*

Section 128. KRS 218A.160 is amended to read as follows:

(1) No manufacturer's or wholesaler's license shall be issued pursuant to this chapter unless the applicant therefor has furnished satisfactory proof:

(a) That the applicant is in compliance with all applicable federal and state laws and regulations relating to controlled substances and is of good moral character or, if the applicant be an association or corporation that the managing officers are of good moral character;

(b) That the applicant is equipped as to land, buildings, and security to properly carry on the business described in his application.

(2) No license shall be granted to any person who has been convicted of a misdemeanor involving any controlled substance or who has been convicted of any felony.

(3) The department for human resources may suspend or revoke any license for cause *after notice and opportunity for hearing in accordance with this Act.*

Section 129. KRS 219.031 is amended to read as follows:

(1) The department or local health department concerned after notice to the applicant or holder of a permit to operate and after an opportunity for a hearing, as provided by rules and regulations of the secretary *made in accordance with this Act*, is authorized to deny, suspend or revoke a permit to operate in any case where it finds that there has been a failure to comply with the requirements of KRS 219.011 to 219.081 and rules and regulations of the secretary.

(2) The department may carry out the provisions of KRS 219.011 to 219.081 and rules and regulations relating to hotels and food service establishments through local health departments. Employes of the department and local health departments are hereby granted the power and authority to enter upon the premises of each hotel or food service establishment at any reasonable time for the purposes set forth in KRS 219.011 to 219.081.

Section 130. KRS 219.370 is amended to read as follows:

The secretary shall adopt rules and regulations for the effective administration and enforcement of KRS 219.310 to 219.410, which may include but are not limited to, standards for park construction and layout, service buildings, watering stations, sanitary stations, sanitation, site planning, lot size, water supply, sewage disposal, lighting, refuse handling, insect and rodent control, inspections, hearings, issuance, suspension, and revocation of permits, and such other matters as may be necessary to insure a safe and sanitary park operation. The secretary is empowered to establish separate rules and regulations for mobile home parks and recreational vehicle parks. *Such rules and regulations governing hearings and revocation of permits shall be promulgated pursuant to this Act.*

Section 131. KRS 219.380 is amended to read as follows:

(1) The Department may administer the provisions of KRS 219.310 to 219.410 through the respective local health department concerned. Officials and employes of the department and of local health departments are empowered to enter upon the premises of any park at any reasonable time for the purposes set forth in KRS 219.310 to 219.410.

(2) The department or local health department concerned, after notice to the applicant or holder of a permit to operate, construct, or alter a park, and after an opportunity for a hearing, is authorized to deny, suspend, or revoke a permit in any case where it finds that there has been a failure to comply with the requirements established under KRS 219.310 to 219.410 or the rules and regulations adopted by the secretary. Hearings shall be in accordance with the regulations of the secretary *and this Act.*

(3) It shall be the duty of each commonwealth's attorney, county attorney, city attorney or attorney general within their respective jurisdiction to whom the department or local health department or its agents report any violation of KRS 219.310 to 219.410, to enforce the provisions of KRS 219.310 to 219.410.

(4) Nothing in KRS 219.310 to 219.410 shall be construed as requiring the department or local health department to report for the institution of proceedings under KRS 219.310 to 219.410, violations of KRS 219.310 to 219.410, whenever the department or local health department concerned believes that the public interest will be adequately served in the circumstances by a suitable written order.

(5) Notwithstanding the existence or pursuit of any other remedy (civil or criminal) the department or local health department concerned may maintain, in its own name, an action to restrain or enjoin any violation of KRS 219.310 to 219.410, irrespective of whether or not there exists an adequate remedy at law.

Section 132. KRS 221.030 is amended to read as follows:

(1) The department, through its secretary or his authorized agents, shall have the authority of supervising and enforcing the provisions of KRS 221.010 to 221.100.

(2) The secretary may prescribe and enforce such rules and regulations and to make such definitions, and prescribe such procedure with regard to hearings *consistent with the provisions of this Act*, as he may

deem necessary to carry into effect the full intent and meaning of KRS 221.010 to 221.100.

(3) In any proceeding under KRS 221.010 to 221.100 the secretary may administer oaths and issue subpoenas, summon witnesses and take testimony of any person within the commonwealth of Kentucky.

Section 133. KRS 221.040 is amended to read as follows:

(1) The secretary may revoke or suspend a frozen food locker plant license if he finds on investigation that the licensee has violated any provisions of the law relating to frozen food locker plants or any law relating to the handling of human food, or has failed to comply with any regulation adopted pursuant to such laws; or that the premises or any equipment used in connection therewith is in an unsanitary condition.

(2) No license shall be revoked or suspended by the secretary without *notice and opportunity for a hearing in accordance with this Act* delivery to the licensee of a written statement of the charge involved and an opportunity to answer such charge within ten (10) days from the date of such notice .

(3) Any order made by the secretary suspending or revoking any license may be reviewed by the circuit court of the county in which the licensed premises are located, *or in such other court and in the manner provided in this Act* within ten (10) days from the date of notice in writing of the commissioner's order revoking or suspending such license has been served upon him .

Section 134. KRS 222.230 is amended to read as follows:

(1) The department shall issue for a term of two years, and may renew for like terms, a license, subject to revocation by it for cause, to any person, other than a licensed hospital, a department, agency, or institution of the federal government, the commonwealth or any political subdivision thereof, deemed by it to be responsible and suitable to establish and maintain a facility and to meet applicable licensure standards and requirements. In the case of a department, agency or institution of the commonwealth or any political subdivision thereof, the department shall grant approval to establish and maintain a facility for a term of two years, and may renew such approval for like terms, subject to revocation by it for cause.

(2) The department shall promulgate rules and regulations establishing requirements and standards for licensing and approval of facilities. Such requirements and standards shall include, but shall not be limited to:

(a) The need for the facility in the community;

(b) The health standards to be met by the facility;

(c) Misrepresentation as to the treatment afforded patients at a facility;

(d) Licensing fees, application *procedures,* and revocation procedures *in accordance with this Act,* and the procedures for evaluation of treatment programs.

(3) The department may establish different requirements and standards for different kinds of facilities, and may impose stricter requirements and standards in contracts with facilities and services made pursuant to KRS 222.220.

(4) Each facility shall be individually licensed or approved.

(5) Each facility shall file with the department from time to time, such data, statistics, schedules or information as the department may reasonably require for the purposes of this section.

(6) The department, after *notice and* holding a hearing conducted *in accordance with this Act* by a hearing officer appointed by the director, which officer shall have the same qualification as a judge of circuit court, may refuse to grant, suspend, revoke, limit or restrict the applicability of or refuse to renew any license or approval for any failure to meet the requirements of its rules and regulations or standards concerning such facilities. Appeal from such decisions shall be *as provided in this Act* with the circuit court in whose jurisdiction the aggrieved party resides .

(7) No person, excepting a licensed hospital, a department, agency or institution of the federal government, the commonwealth or any political subdivision thereof, shall operate a facility without a license and no department, agency or institution of the commonwealth or any political subdivision thereof shall operate a facility without approval from the department pursuant to this section.

(8) Each facility shall be subject to visitation and inspection by the department and the department shall inspect each facility prior to granting or renewing a license or approval. The department may examine the books and accounts of any facility if it deems such examination necessary for the purpose of this section.

(9) The director may require facilities or services which contract with the commonwealth, pursuant to KRS 222.220 (1) (a), to admit as an inpatient or outpatient any person to be afforded treatment pursuant to this chapter.

(10) The department shall promulgate rules and regulations governing the extent to which the circumstances in which facilities and services may be required to treat any person as an inpatient or outpatient pursuant to this chapter, except that no licensed hospital with an emergency service shall refuse any person treatment for intoxication or alcoholism unless the person's need for treatment is not immediate and the hospital has at the time exceeded its reasonable treatment capacity for intoxication and alcoholism.

Section 135. KRS 223.070 is amended to read as follows:

The department shall have the power to revoke the certificate of registration of any registrant for unprofessional conduct or the practice of any fraud or deceit in obtaining registration, or any gross negligence, incompetency, or misconduct in the practice of public health sanitation, *after notice and hearing in accordance with this Act.*

Section 136. KRS 223.200 is amended to read as follows:

(1) The department for human resources, with the advice of the board of certification, shall adopt rules and regulations as are reasonably necessary to carry out the intent of KRS 223.160 to 223.220 and 223.991. The rules and regulations may include, but are not limited to, provisions establishing standards for classification of water treatment plants and water distribution systems, provisions establishing qualifications of applicants and procedures for examination of candidates, membership, and duties of the board of certification, provisions relating to the renewal, cancellation or revocation of certificates *in accordance with this Act*, including the specifications of the grounds therefor, and such other provisions as are necessary for the administration of KRS 223.160 to 223.220 and 223.991.

(2) All rules and regulations heretofore adopted by the department for human resources relating to the certification of operators of water treatment plants and water distribution systems and on file with the Legislative Research Commission on June 16, 1966 are hereby declared to be in full force and effect until otherwise amended or repealed.

Section 137. KRS 224.033 is amended to read as follows:

In addition to any other powers and duties vested in it by law, the department shall have the authority, power, and duty to:

(1) Exercise general supervision of the administration and enforcement of Acts 1972 (1st Ex. Sess.), ch. 3, and all rules, regulations and orders promulgated thereunder;

(2) Prepare and develop a comprehensive plan or plans related to the environment of the commonwealth;

(3) Encourage industrial, commercial, residential and community development which provides the best usage of land areas, maximizes environmental benefits and minimizes the effects of less desirable environmental conditions;

(4) Develop and conduct a comprehensive program for the management of water, land, and air resources to assure their protection and balance utilization consistent with the environmental policy of the commonwealth;

(5) Provide for the prevention, abatement, and control of all water, land, and air pollution including but not limited to that related to particulates, pesticides, gases, dust, vapors, noise, radiation, odor, nutrients, heated liquid, or other contaminants;

(6) Provide for the control and regulation of strip mining and reclamation in a manner to accomplish the purposes of KRS chapter 350;

(7) Secure necessary scientific, technical, administrative, and operational services, including laboratory facilities, by contract or otherwise;

(8) Collect and disseminate information and conduct educational and training programs relating to the protection of the environment;

(9) Appear and participate in proceedings before any federal regulatory agency involving or affecting the purposes of the department;

(10) Enter and inspect any property or premises for the purpose of investigating either actual or suspected sources of pollution or contamination or for the purpose of ascertaining compliance or noncompliance with Acts 1972 (1st Ex. Sess.), ch. 3, or any rule or regulation which may be promulgated thereunder;

(11) Conduct investigations, *give notices* and hold hearings *in accordance with this Act* and compel the attendance of witnesses and the production of accounts, books and records by the issuance of subpoenas;

(12) Accept, receive, and administer grants or other funds or gifts from public and private agencies including the federal government for the purpose of carrying out any of the functions of the department. Such funds received by the department shall be deposited in the state treasury to the account of the department;

(13) Request and receive the assistance of any state or municipal educational institution, experiment station, laboratory, or other agency when it is deemed necessary or beneficial by the department in the performance of its duties.

(14) Advise, consult, and cooperate with other agencies of the commonwealth, other states, the federal government, and interstate and interlocal agencies, and affected persons, groups and industries;

(15) Formulate guides for measuring presently unidentified environmental values and relationships so they can be given appropriate consideration along with social, economic, and technical considerations in decision making;

(16) Monitor the environment to afford more effective and efficient control practices, to identify changes and conditions in ecological systems and to warn of emergency conditions;

(17) Adopt, modify or repeal with the recommendation of the commission any standard, rule, regulation or plan specified in subsections (5) and (6) of KRS 224.045;

(18) Issue, after hearing, orders abating activities in violation of this chapter, or the provisions of Acts 1972 (1st Ex. Sess.), ch. 3, or the regulations promulgated pursuant thereto and requiring the adoption of such remedial measures as the department may deem necessary;

(19) Issue, continue in effect, revoke, modify, suspend or deny under such conditions as the department may prescribe, permits to discharge into any waters of the commonwealth, and for the installation, alteration, expansion, or operation of any sewage system; the installation, alteration, or use of any machine, equipment, device or other article that may cause or contribute to air pollution or is intended primarily to prevent or control the emission of air pollution; or the establishment or construction and the operation or maintenance of solid waste disposal sites and facilities; and require that applications for such permits be accompanied by plans, specifications, and such other information as the department deems necessary;

(20) May establish, by regulation, a fee or schedule of fees for the cost of processing applications for permits authorized by this chapter, and for the cost of processing applications for exemptions or partial exemptions which may include but not be limited to the administrative costs of a hearing held as a result of such exemption application, except that applicants for existing or proposed publicly owned facilities shall be exempt from any such charge;

(21) May require for persons discharging into the waters of the commonwealth, by regulation, order or permit, technological levels of treatment and effluent limitations;

(22) Require, by regulation, that any person engaged in any operation regulated pursuant to this chapter install, maintain, and use at such locations and intervals as the department may prescribe any equipment, device or test and the methodologies and procedures for the use of such equipment, device or test to monitor the nature and amount of any substance emitted or discharged into the ambient air or waters of the commonwealth and to provide any information concerning such monitoring to the department in accordance with the provisions of subsection (23) of this section;

(23) Require by regulation that any person engaged in any operation regulated pursuant to this chapter file with the department reports containing information as to location, size, height, rate of emission or discharge, and composition of any substance discharged or emitted into the ambient air or into the waters of the commonwealth, and such other information as the department may require; and

(24) Perform such other and further acts as may be necessary to carry out the duties and responsibilities herein described.

Section 138. KRS 224.045 is amended to read as follows:

The environmental quality commission shall have the power, duty and authority to:

(1) Establish such advisory committees as may be necessary and convenient.

(2) Advise the secretary on any matter within his responsibility which it deems necessary.

(3) Advise the governor on any matter covered by the provisions of Acts 1972 (1st Ex. Sess.), ch. 3.

(4) Serve as a working public forum for the exchange of views, concerns, ideas, information, and recommendations relating to the quality of the natural environment.

(5) Recommend adoption or rejection by a majority of its membership present and voting any proposal by the department to adopt, modify or revoke:

(a) Any positions proposed to be taken by the department on behalf of the state before interstate and federal agencies or federal legislative bodies on matters relating to or affecting the quality of the environment of the state;

(b) Any rule or regulation *made in accordance with this Act and other applicable law* pertaining to the procedural aspects of hearings, appeals, the filing of reports, the issuance of orders, the issuance of permits, and the application for and the granting of exemptions; or

(c) Any procedures for the financial assistance grants proposed to be given to municipal, regional, county, or state organizations for environmental purposes.

(6) Recommend adoption or rejection after public hearing by a majority of its membership present and voting any proposal by the department to adopt, modify, or revoke:

(a) Any comprehensive environment quality plan, program or policy proposed for adoption as a state plan or policy pertaining to an environmental management activity; or

(b) Any rule or regulation pertaining to the prevention, abatement, and control of existing or threatened air or water pollution, disposal of solid waste, control of noise, or the use of air, land, or water resources, or strip mining and reclamation.

(7) Establish an advisory committee on noise control, which shall consist of a sound engineer, an audiologist, and one representative from each of the following: transportation industry, manufacturing industry, labor, citizenry, and the general assembly. Such members shall be appointed with the approval of the secretary, who shall be an ex officio member.

Section 139. KRS 224.071 is amended to read as follows:

Notwithstanding any inconsistent provisions of law, whenever the secretary finds, after investigation, that any person or combination of persons is causing, engaging in or maintaining a condition or activity which, in his judgment, presents a danger to the health or welfare of the people of the state or results in or is likely to result in damage to natural resources, and relates to the prevention and abatement powers of the secretary and it therefore appears to be prejudicial to the interests of the people of the state to delay action until an opportunity for a hearing can be provided, the secretary may, without prior hearing, order such person or combination of persons by notice, in writing wherever practicable or in such other form as in the secretary's judgment will reasonably notify such person or combination of persons whose practices are intended to be proscribed, to discontinue, abate or alleviate such condition or activity, and thereupon such person shall immediately discontinue, abate or alleviate such condition or activity. As soon as possible thereafter, not to exceed ten (10) days, the secretary shall provide the person or combination of persons an opportunity to be heard *in accordance with this Act* and to present proof that such condition or activity does not violate the provisions of this section. The secretary shall adopt any other appropriate rules and regulations prescribing the procedure to be followed in the issuance of such orders. The secretary shall immediately notify the governor of any order issued pursuant to this section.

Section 140. KRS 224.081 is amended to read as follows:

(1) Whenever the department has reason to believe that a violation of any of the provisions of this chapter or any rule or regulation promulgated pursuant thereto has occurred it shall issue and serve upon the person complained against a written notice *in accordance with this Act* of the provision of this chapter or the rule or regulation alleged to have been violated and the facts alleged to constitute the violation thereof and shall require the person so complained against to answer the charges set out in the notice at a hearing *to be scheduled and conducted in accordance with this Act* before the department at a time not less than twenty-one (21) days after the date of notice , except as provided in KRS 224.071.

(2) Any person not previously heard in connection with the issuance of any order or the making of any determination, including but not limited to the issuance, denial, modification, or revocation of any permit, by which he considers himself aggrieved may file with the department a petition alleging that such order or determination is contrary to law or fact and is injurious to him, alleging the grounds and reasons therefor, and demand a hearing *in accordance with this Act.* Unless the department considers that the petition is frivolous, it shall serve written notice of the petition on each person named therein and shall schedule a hearing before the department *in accordance with this Act* not less than *within twenty (20)* twenty-one (21) days after *receiving the petition for a hearing,* the date of such notice except as provided in KRS 224.071. The right to demand a hearing pursuant to this section shall be limited to a period of thirty (30) days after the petitioner has had actual notice of the order or determination complained of, or could reasonably have had such notice.

Section 141. KRS 224.083 is amended to read as follows:

(1) All hearings under this chapter shall be held *in accordance with this Act* before a qualified hearing officer, who may be a full-time employe of the department, serve by contract, or be paid on a per diem basis in the discretion of the department. After the final conclusion of the hearing, the hearing officer shall make to the secretary a report and recommended order which shall contain a finding of fact and a conclusion of law. The hearing officer shall serve a copy of his report and recommended order upon all parties of record to the proceeding, and they shall be granted the right to file within seven (7) days of receipt exceptions thereto. The secretary shall consider the report and recommended order and pass upon the case. The decision shall be served by mail upon all parties and shall be a final order of the department.

(2) Any party to a hearing under this subsection may be represented by counsel, may make oral or written argument, offer testimony, cross-examine witnesses, or take any combination of such actions. The record of such hearing shall be open to public inspection, and copies thereof shall be made available to any person upon payment of the actual cost of reproducing the original except as provided in KRS 224.035.

(3) All hearings conducted pursuant to this chapter shall be open to the public except as provided in KRS 224.035.

Section 142. KRS 224.085 is amended to read as follows:

(1) Appeals may be taken from all orders of the department for natural resources. Such appeals shall be taken within thirty (30) days from the rendition of such order to the Franklin Circuit Court *in accordance with this Act.* The party or parties affected by the order shall file in the circuit court a petition which states fully the grounds upon which a review is sought and assign all errors relied on. The department shall be named respondent, and service shall be had on the secretary. Summons shall issue upon the petition directing the department to send its entire record, properly bound, to the clerk of the circuit court after certifying that

such record is its entire original record or a true copy thereof, which shall be filed by the clerk of the circuit court and such record shall then become and be considered by the circuit court on the review. After the case has been properly docketed in the circuit court, any party directly affected by the issues on appeal, may, upon notice to the parties and upon proper showing and in the discretion of the court, be permitted to intervene. Upon hearing of the appeal the findings of the department shall be prima facie evidence of the facts found therein. The court shall review the entire record and the findings and order of the department.

(2) Appeals to the Court of Appeals from orders of the circuit court, shall be taken in the manner provided in the Kentucky Rules of Civil Procedure.

Section 143. KRS 224.852 is amended to read as follows:

(1) Application for a pollution control tax exemption certificate shall be filed with the department in such manner and in such form as may be prescribed by regulations issued by the department and shall contain plans and specifications of the structure or structures including all materials incorporated and to be incorporated therein and a descriptive list of all equipment acquired or to be acquired by the applicant for the purpose of air, noise, solid waste or water pollution control and any additional information deemed necessary by the department of revenue for the proper administration of Acts 1974, Chapter 137. If the department finds that the facility qualifies as a pollution control facility as defined in KRS 224.850(1), it shall enter a finding and issue a certificate to that effect. The effective date of said certificate shall be the date of the making of the application for such certificate.

(2) Before issuing a pollution control tax exemption certificate, the department shall give notice in writing by mail to the commissioner of revenue, and shall afford to the applicant and to the commissioner of revenue an opportunity for a hearing *in accordance with with this Act*. On like notice and opportunity for a hearing, the department shall on its own initiative revoke such certificate whenever any of the following appears:

(a) The certificate was obtained by fraud or misrepresentation;

(b) The holder of the certificate has failed substantially to proceed with the construction, reconstruction, installation, or acquisition of the pollution control facilities;

(c) The structure or equipment or both to which the certificate relates has ceased to be used for the primary purpose of pollution control and is being used for a different purpose.

(3) Provided, however, that where the circumstances so require, the department in lieu of revoking such certificate may modify the same.

(4) On the mailing of notice of the action of the department revoking or modifying a certificate as provided in subsection (5) of this section, such certificate shall cease to be in force or shall remain in force only as modified as the case may require.

(5) A pollution control tax exemption certificate, when issued, shall be sent by certified mail to the applicant and notice of such issuance in the form of certified copies thereof shall be sent to the commissioner of revenue. Notice of an order of the department denying, revoking, or modifying a certificate in the form of certified copies thereof shall be sent by certified mail to the applicant or the holder thereof and shall be sent to the commissioner of revenue. The applicant or holder and the commissioner of revenue are deemed parties for the purpose of the review afforded by subsection (6) of this section.

(6) Any party aggrieved by the issuance, refusal to issue, revocation, or modification of a pollution control tax exemption certificate may appeal from the final ruling of the department to the Kentucky board of tax appeals as provided in KRS 131.340.

(7) In the event of the sale, lease, or other transfer of a pollution control facility, not involving a different location or use, the holder of a pollution control tax exemption certificate for such facility may transfer the certificate by written instrument to the person who, except for the transfer of the certificate, would be obligated to pay taxes on such facility. The transferee shall become the holder of the certificate and shall have all rights pertaining thereto, effective as of the date of transfer of the facility or the date of transfer of the certificate, whichever is earlier. The transferee shall give written notice of the effective date of the transfer, together with a copy of the instrument of transfer to the Department and to the Department of Revenue.

(8) In the event a pollution control facility for which an exemption certificate is held ceases to be used for the primary purpose of pollution control or is used for a different purpose than that for which the exemption certificate was granted, the holder of the certificate shall give written notice by certified mail of such change to the department and to the department of revenue.

Section 144. KRS 227.640 is amended to read as follows:

(1) The office may deny the application for a license or certificate of acceptability within thirty (30) days after receipt thereof by written notice to the applicant, stating the grounds for such denial *and providing notice and opportunity for hearing in accordance with this Act*.

(2) No license or certificate of acceptability shall be suspended or revoked by the office except after *notice and* a hearing thereon *in accordance with this Act.* The office shall give the licensee or certificate holder at least thirty (30) days' notice of the time and place of hearing and of the charges to be heard.

(3) Any manufacturer or dealer who violates or fails to comply with KRS 227.550 to 227.660 or any rules or regulations promulgated thereunder shall be notified in writing setting forth facts describing the alleged violation and instructed to correct the violation within sixty (60) days. Should the manufacturer or dealer fail to make the necessary corrections within the specified time, the office may, after *such* notice and hearing, suspend or revoke any certificate of acceptability or license if it finds that:

(a) The manufacturer or dealer has failed to pay the fees authorized by KRS 227.550 to 227.660; or that

(b) The manufacturer or dealer either knowingly or without the exercise of due care to prevent the same, has violated any provision of KRS 227.550 to 227.660 or any regulation or order lawfully made pursuant to and within the authority of KRS 227.550 to 227.660; or that

(c) The manufacturer has shipped or imported into this state a mobile home or recreational vehicle to any person other than to a duly licensed dealer.

(4) Any person aggrieved by any ruling of the office denying a license or suspending or revoking a license, within fifteen (15) days after any such ruling of the office may appeal such ruling to the board herein provided for *requesting hearing to be scheduled and conducted in accordance with this Act.* Such appeal shall be in writing. The board shall state in writing, officially signed by all the members concurring therein, its findings and determination after such hearing and its order in the matter. If the board shall determine and order that any applicant is not qualified to receive a license or certificate of acceptability, no license or certificate shall be granted. If the board shall determine that the licensee or certificate holder has wilfully or through gross negligence been guilty of a violation of any of the provisions of KRS 227.550 to 227.660, his license may be suspended or revoked.

(5) Any person aggrieved by any ruling of the board may appeal to the Franklin Circuit Courts and to the Court of Appeals in the manner provided for by KRS 281.780 and 281.785.

Section 145. KRS 228.050 is amended to read as follows:

The commissioner may refuse, suspend or revoke a permit *after hearing in accordance with this Act* for fraud in procuring it, or for a violation of any law.

Section 146. KRS 229.200 is amended to read as follows:

(1) The commission may suspend or revoke or refuse to renew or issue a license *after notice and opportunity for a hearing in accordance with this Act* for the reason therein stated, that the licensee or applicant has, in the judgment of the commission, been guilty of an act detrimental to the interests of boxing or wrestling generally or to the public interest, convenience or necessity, including, but not by way of limitation, the violation of any of the provisions of this chapter or any rule or regulation of the commission.

(2) Without limiting the discretion of the commission as provided in this chapter, the commission may suspend or revoke a license or refuse to renew or issue a license, if it shall find *after notice and opportunity for a hearing in accordance with this Act* that the applicant, or any person who is a partner, agent, employe, stockholder or associate of the applicant, has been convicted of a crime in any jurisdiction, or is associating or consorting with any person who has or persons who have been convicted of a crime or crimes in any jurisdiction or jurisdictions, or is consorting or associating with or has consorted or associated with bookmakers, gamblers or persons of similar pursuits, or has himself engaged in similar pursuits, or is financially irresponsible, or has been guilty of or attempted any fraud or misrepresentation in connection with boxing or wrestling, or has violated or attempted to violate any law with respect to boxing or wrestling in any jurisdiction or any rule, regulation or order of the commission, or shall have violated any rule of boxing or wrestling which shall have been approved or adopted by the commission, or has been guilty of or engaged in similar, related or like practices.

(3) Any licensee whose license has been suspended, may with the approval of the commission, elect to pay the commission a penalty which the commission may fix at an amount not in excess of five hundred dollars ($500). Such a payment, when received by the commission, shall have the effect of removing the suspension.

Section 147. KRS 229.220 is amended to read as follows:

(1) The chairman shall be the chief executive officer of the commission and is authorized to take any action or exercise any power given by this chapter to the commission, except the adoption of rules and regulations, and except as otherwise restricted by this section provided, however, any person aggrieved by any act or decision of the chairman may appeal to the full commission by filing written notice with the secretary of the commission within ten (10) days of the act or decision being appealed and the grounds for appeal, and the address of the appellant. Unless waived by the commission the notice must be accompanied by a list of the names and addresses of any persons the appellant wishes to have subpoenaed by the commission for the hearing and a list of any documents he desires to have produced.

(2) Upon receipt of the notice of appeal a hearing shall be set for a date not less than ten (10) nor more than thirty (30) days from the filing of the notice , and written notice of the time and place of the hearing shall be *provided in accordance with this Act* mailed to the appellant not less than five (5) days in advance of such hearing . Upon the mutual agreement of the commission and appellant an earlier or later date may be fixed, in which event no notice to appellant shall be required. All hearings shall be held at the office of the commission unless in the judgment of the commission it will be more expeditious to hold the hearing elsewhere within the commonwealth.

(3) The full commission may approve, set aside or modify the action or decision of the chairman. At least three (3) commissioners shall be required to conduct a hearing and the concurrence of a majority of those present at the hearing shall be necessary to render a decision. The chairman may participate at the hearing, including, if he so elects, participation in the deliberations of the commission and the determination of its decision. The commission shall furnish appellant with a *copy of the final order in accordance with this Act* statement of its findings of fact and the reasons for the decision reached. The findings of fact made by the commission shall, unless clearly arbitrary or capricious, be conclusive but any party aggrieved shall have the right of appeal as hereinbelow provided .

(4) Any party aggrieved by the decision of the commission may appeal to the Franklin Circuit Court *in accordance with this Act* provided notice of appeal is filed with the commission within ten (10) days from the date of the decision and provided that, at the time of filing such notice the appellant shall deposit with the commission a sum sufficient to pay for the cost of taking and transcribing the proceedings before the commission, to be retained by the commission unless its decision is ultimately reversed, and provided that during such ten (10) day period the appellant shall post a bond with the clerk of the Franklin Circuit Court to secure the costs of the action in such sum as may be approved by the clerk, with good and solvent surety. Thereafter, the commission shall forthwith transmit the original record of all of the proceedings before the commission. Upon receipt of such record the clerk shall docket the appeal. No formal pleadings shall be required in such appeals but the case shall be set down by the court for as early a date as possible for such a hearing, and after such hearing the court shall enter a judgment sustaining or setting aside the decision of the commission . Either party may appeal to the Court of Appeals from the judgment of the circuit court in accordance with the Rules of Civil Procedure.

Section 148. KRS 230.320 is amended to read as follows:

(1) Every license granted under KRS 230.210 to 230.360 is subject to revocation or suspension by the commission in any case where it has reason to believe that any provision of KRS 230.210 to 230.360 or rule, regulation or condition of the commission affecting it has not been complied with or has been broken or violated. The commission in the interest of honesty and integrity of thoroughbred horse racing and appaloosa horse racing may prescribe rules and regulations *in accordance with this Act* under which any license may be denied, suspended or revoked.

(2) If any license is denied, suspended or revoked the commission shall state publicly its reasons for the suspension or revocation and shall cause an entry of such reasons to be made on its record book. The action of the commission in denying, suspending or revoking any license issued under KRS 230.210 to 230.360 is final except that such action is subject to review *as provided by this Act* by any court of competent jurisdiction . The action of the commission shall remain in full force and effect until reversed or modified by a valid order of such court.

Section 149. KRS 230.330 is amended to read as follows:

Any licensee or any applicant aggrieved by any order of the commission may appeal to the Franklin Circuit Court within the time and in the manner provided by KRS 243.560 to 243.590.

Section 150. KRS 230.355 is amended to read as follows:

(1) Any hearing authorized or required by KRS 230.210 to 230.360 may be conducted by the commission, or may be conducted by a hearing *examiner* officer appointed by the commission *in accordance with this Act* to serve in its place. Such a hearing shall be conducted *in accordance with this Act* in the name of the commission at any time or place designated by the chairman. The hearing officer may, in receiving evidence on behalf of the commission, make such rulings affecting the competency, relevancy, and materiality of evidence to be presented and upon motions presented during the taking of evidence as will expedite the preparation of the case. The commission may require the entire record to be certified to it for initial decision, and the hearing officer shall submit written findings of fact, conclusions of law and recommendations which shall be incorporated in and become a part of the record. In the absence of a requirement by the commission that a record be certified to it for initial decision, the hearing officer shall render a decision, and in the absence of either an appeal to the commission, or a review upon motion of the commission, the hearing officer's decision shall become the decision of the commission.

(2) A hearing *examiner* officer may be a full-time employe, serve by contract, or be paid upon a per diem basis in the discretion of the commission *but shall be qualified and appointed in accordance with this Act*

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Section 151. KRS 230.420 is amended to read as follows:

(1) The commission may prescribe the regulations and conditions under which quarter horse or Appaloosa races other than Appaloosa races conducted at thoroughbred race meetings shall be conducted in this state.

(2) An association desiring to conduct quarter horse or Appaloosa races may annually apply to the commission for a license. If in the judgment of the commission a proper case for issuance is shown, it may grant the license for a term of one year. Every license shall contain a condition that all quarter horse or Appaloosa races or meetings conducted under it shall be subject to the regulations and conditions from time to time prescribed by the commission.

(3) A license shall be revocable by the commission *after notice and opportunity for hearing in accordance with this Act* for any violation of it or whenever the continuance of the license is deemed by the commission not conducive to the interests of legitimate racing. If a license is refused or revoked, the commission shall publicly state its reasons for the refusal or revocation and those reasons shall be written in full in the minute book of the commission, which shall at all times be subject to inspection by anyone desiring to inspect it. A refusal of the commission to grant to any quarter horse or Appaloosa association a license, or to assign any quarter horse or Appaloosa association at least forty days in each year, if desired for quarter horse or Appaloosa races or meetings at the track of the association, and the revocation of the license of any association shall be subject to judicial review *in accordance with this Act.*

Section 152. KRS 230.720 is amended to read as follows:

(1) Every license granted under KRS 230.610 to 230.760 is subject to revocation or suspension by the commission in any case where it has reason to believe that any provision of KRS 230.610 to 230.760 or rule, regulation or condition of the commission affecting it has not been complied with or has been broken or violated. The commission in the interest of honesty and integrity of standardbred horse racing *shall* may prescribe rules and regulations *in accordance with this Act governing procedures* under which any license may be denied, suspended or revoked.

(2) If any license is denied, suspended or revoked the commission shall state publicly its reasons for the suspension or revocation and shall cause an entry of such reasons to be made on its record book. The action of the commission in denying, suspending or revoking any license issued by it, or the imposition of any fine or penalty, is final except that such action is subject to appeal *in accordance with this Act* to the Franklin Circuit Court . The action of the commission shall remain in full force and effect until reversed or modified by a valid final order of the Franklin Circuit Court.

(3) No court may enjoin any order of the commission denying, suspending or revoking any license or imposing fine or penalty, pending appeal to the Franklin Circuit Court.

Section 153. KRS 230.730 is amended to read as follows:

(1) *Any person aggrieved by the commission's order may file a petition for judicial review in accordance with this Act in the Circuit Court* The commission and each party may appear in the proceedings in the circuit court on an appeal .

(2) In case of appeals, no new or additional evidence may be introduced in the circuit court except as to fraud or misconduct of some person engaged in the administration of this chapter and affecting the order; the court shall hear the case upon the certified record or abstract thereof, and shall dispose of the case in a summary manner, its review being limited to determining whether or not the commission acted without or in excess of its power, the order was procured by fraud, the order is in conformity to the provisions of this chapter, and the findings of fact in issue are supported by any substantial evidence.

(3) The commission shall as soon as practicable after being served with summons file a copy of the record, the cost of such record to be taxed as costs upon appeal. In lieu of filing such record, an abstract thereof may be filed if agreed to by all parties to the hearing.

(4) The record shall consist of the initial determination of the commission or its representative, the transcript of the hearing before the commission and the decision of the commission. No pleadings other than the record shall be required of the commission, but the commission may in its discretion file such pleadings as it may choose within the time allowed by law in similar civil actions.

(5) The court shall enter judgment confirming, modifying or setting aside the order or, in its discretion, remanding the case to the commission for proceedings in conformity with the directions of the court.

(2) (6) Any party may appeal from the circuit court to the Court of Appeals in accordance with the Rules of Civil Procedure, and subject to the rules of that court such appeal shall be advanced on the docket.

Section 154. KRS 234.330 is amended to read as follows:

(1) A license shall be required of each liquefied petroleum gas motor fuel dealer and each liquefied petroleum gas motor fuel user-seller.

(2) Application for a license shall be made to the department upon forms prepared and furnished by the department. The application shall contain such information as the department deems necessary.

(3) Concurrently with the filing of an application for a license, a liquefied petroleum gas motor fuel dealer shall file with the department a bond as required under KRS 234.340. No license shall be issued to any person unless such person has furnished a bond as provided in KRS 234.340 to secure payment of taxes, penalties and interest imposed by KRS 234.310 to 234.440. No bond shall be filed with an application for a liquefied petroleum gas motor fuel user-seller license.

(4) The application in proper form having been accepted for filing, the bond, if required, having been accepted and approved and the other conditions and requirements of this section having been complied with, the department shall issue a license. However, if an application for a license is filed by any person whose license has at any time previously been revoked for cause by the department, or if the department is of the opinion that the person who makes the application as a subterfuge for the real party in interest whose license, prior to the time of filing the application, has been revoked for cause, or that the application is not for any other reason filed in good faith or is not for sufficient cause, the department may, after *notice and opportunity for* a hearing *in accordance with this Act* of which the applicant shall be given ten (10) days' notice in writing and in which he shall have the right to appear in person or by counsel and present testimony , refuse to issue a license to that person.

(5) All licenses shall be valid and remain in full force and effect until suspended or revoked for cause *in accordance with this Act* or otherwise canceled.

(6) A license shall not be assignable or transferable and shall be valid only for the person in whose name it is issued.

(7) The department shall keep and file all applications and bonds, with an alphabetical index thereof.

Section 155. KRS 234.340 is amended to read as follows:

(1) Every liquefied petroleum gas motor fuel dealer shall file with the department a corporate bond, cash bond or securities approved by the department in a minimum amount of five hundred dollars ($500) and in a maximum amount of four (4) months' liability for taxes imposed under KRS 234.310 to 234.440 but not to exceed fifty thousand dollars ($50,000). If, however, a liquefied petroleum gas motor fuel dealer is bonded as provided in KRS 138.330 the department may waive the bonding requirement in this section provided a rider is attached to such bond to guarantee payment of all liquefied petroleum gas motor fuel taxes together with all penalties and interest thereon and secure faithful compliance with the provisions of KRS 234.310 to 234.440. The applicant for a license shall be the principal obligor and this state shall be the obligee. The bond shall be conditioned upon the prompt filing of true reports and the payment by the licensee to the department of all taxes levied under KRS 234.310 to 234.440, together with all penalties and interest thereon and generally upon faithful compliance with the provisions of KRS 234.310 to 234.440.

(2) If the liability upon the bond is discharged or reduced, whether by judgment rendered, payment made, or otherwise or if in the opinion of the department any surety has become unsatisfactory or unacceptable, the department may require the licensee to file a new bond with satisfactory surety in the same form and amount, failing which the department shall forthwith cancel the license. If a new bond is furnished by the licensee as above provided, the department shall cancel the bond for which the new bond is substituted.

(3) If *after notice and* upon hearing *in accordance with this Act,* of which the licensee shall be given ten (10) days' notice in writing, the department decides that the amount of the existing bond is insufficient to insure payment to this state of the amount of the tax, penalties, and interest for which the licensee is or may become liable, the licensee shall forthwith, upon the written *order* demand of the department, file an additional bond in the same manner and form with surety thereon approved by the department, in any amount determined by the department to be necessary, failing which the department shall forthwith cancel the license.

(4) Any surety on a bond furnished by a licensee shall be released from all liability to this state accruing on such bond after the expiration of sixty (60) days from the date upon which the surety has lodged with the department a written request to be released, but this request shall not operate to release the surety from any liability already accrued or which shall accrue before the expiration of the sixty-day period. The department shall, promptly on the receipt of the request, notify the licensee who furnished the bond, and unless the licensee shall, before the expiration of the sixty-day period, file with the department a new bond with surety satisfactory to the department in the amount and form hereinbefore provided, the department shall forthwith cancel the license. If the new bond is furnished by the licensee as above provided, the department shall cancel the bond for which the new bond is substituted.

Section 156. KRS 234.350 is amended to read as follows:

(1) If a licensee at any time files a false monthly report of the information required, or fails or refuses to file the monthly report or to pay the full amount of the tax or violates any other provision of KRS 234.310 to 234.440, without a showing that such failure was due to reasonable cause, the department may, *after notice and opportunity for hearing in accordance with this Act,* cancel the license and suspend the privilege of acting as a liquefied petroleum gas motor fuel dealer.

(2) Upon voluntary surrender of the license or upon receipt of a written request by a licensee, the department may cancel his license, effective sixty (60) days from the date of request, but no such license shall be canceled upon surrender or request unless the licensee has, prior to the date of cancellation, paid to this state all taxes, penalties, interest and fines that are due or have accrued, and unless the licensee has surrendered to the department his license.

(3) If upon investigation the department ascertains that any person to whom a license has been issued is no longer engaged as a liquefied petroleum gas motor fuel dealer or a liquefied petroleum gas motor fuel user-seller, and has not been so engaged for a period of six (6) months, the department may cancel such license *in accordance with this Act* by giving the person sixty (60) days' notice of cancellation, mailed to his last known address in which event the license shall be surrendered to the department.

(4) Whenever a licensee ceases to engage in business within this state, he shall notify the department in writing within fifteen (15) days after discontinuance. All taxes that have accrued under KRS 234.310 to 234.440, whether or not then due, shall become due and payable concurrently with such discontinuance. The licensee shall make a report and pay all such taxes and any interest and penalties thereon, and shall surrender to the department his license.

(5) If the license is canceled by the department as provided in this section, and if the licensee has paid to this state all taxes, interest and penalties under KRS 234.310 to 234.440, the department shall cancel the bond filed by the licensee.

Section 157. KRS 236.100 is amended to read as follows:

(1) Any boiler inspector's appointment or commission may be suspended *after hearing in accordance with this Act* by the department, after due investigation, for the incompetence or untrustworthiness of the holder thereof for wilful falsification of any matter or statement contained in his application or in a report of any inspection made by him. Written notice of any such suspension shall be given by the department , to the inspector, and in the case of special boiler inspector, his employer.

(2) A person whose appointment or commission has been suspended shall be entitled to apply, after ninety (90) days from the date of such suspension, for reinstatement of such appointment or commission.

Section 158. KRS 236.120 is amended to read as follows:

(1) If, upon inspection, a boiler is found to comply with the rules and regulations of the board, the owner or user thereof shall pay to the department the sum of two dollars ($2.00) and the boiler inspector, or his duly authorized representative, shall issue to such owner or user an inspection certificate bearing the date of inspection and specifying the maximum pressure under which the boiler may be operated. Such inspection certificate shall be valid for not more than fourteen (14) months from its date in the case of power boilers, and twenty-six (26) months in the case of low pressure steam or vapor heating boilers, hot water heating boilers or hot water supply boilers. Certificates shall be posted under glass in the room containing the boiler inspected or, in the case of a portable boiler, shall be kept in a metal container, either fastened to the boiler or kept in a tool box accompanying the boiler.

(2) No inspection certificate issued for an insured boiler inspected by a special boiler inspector shall be valid after the boiler for which it was issued shall cease to be insured by a company duly authorized by this state to carry such insurance.

(3) The commissioner or his authorized representative may at any time suspend an inspection certificate *in accordance with this Act* when, in his opinion, the boiler for which it was issued, cannot be operated without menace to the public safety, or when the boiler is found not to comply with the rules and regulations provided in this chapter. A special boiler inspector shall have corresponding powers with respect to inspection certificates for boilers insured by the company employing him. Such suspension of an inspection certificate shall continue in effect until such boiler shall have been made to conform to the rules and regulations of the board, and until said inspection certificate shall have been reinstated.

Section 159. KRS 236.150 is amended to read as follows:

(1) Any person aggrieved by an order or act of a boiler inspector, under this chapter, may, within fifteen (15) days of notice thereof, appeal from the order or act to the commissioner who shall *give notice and* , within thirty (30) days thereafter, hold a hearing *in accordance with this Act* , after having given at least ten (10) days written notice to all interested parties . The commissioner shall , within thirty (30) days after

the hearing, issue an appropriate order either approving or disapproving the order or act. A copy of such order by the commissioner shall be given to all interested parties *in accordance with this Act.*

(2) Within thirty (30) days after any order or act of the commissioner *becomes final,* any person aggrieved thereby may file a petition in the Franklin Circuit Court for a review thereof *in accordance with this Act.* The court shall summarily hear the petition and may make any appropriate order or decree.

Section 160. KRS 236.220 is amended to read as follows:

(1) A license issued under KRS 236.210 to 236.260 may be suspended for falsification of any information contained in the application. Written notice of a suspension shall be given to the licensee by the chief boiler inspector within ten (10) days of the first notification of the violation. A person whose license has been suspended may appeal to the board as provided in KRS 236.150 and be present in person and represented by counsel at the hearing of the appeal.

(2) If the board has reason to believe that a licensee is no longer qualified to hold his license, the board , upon ten (10) days' written notice to the licensee, shall hold a hearing *in accordance with this Act* at which the licensee shall have an opportunity to be heard . If, as a result of the hearing, the board finds that the licensee is no longer qualified to hold his license, the board shall recommend to the commissioner that the license be revoked or suspended.

(3) A person whose license has been suspended may apply for reinstatement of the license after ninety (90) days from the date of the suspension.

Section 161. KRS 241.060 is amended to read as follows:

The board shall have the following functions, powers and duties:

(1) To adopt reasonable regulations governing the procedure relative to applications for and revocations of licenses and relative to all other matters over which the board has jurisdiction, and for the supervision and control of manufacture, sale, transportation, storage, advertising and trafficking of alcoholic beverages. *Procedures for revocation of licenses shall be in accordance with subsection (5) of this section.* Regulations need not be uniform in their application, but may vary in accordance with reasonable classifications;

(2) To limit in its sound discretion the number of licenses of each kind or class to be issued in this state or any political subdivision, and restrict the locations of licensed premises. To this end the board may make reasonable division and subdivision of the state or any political subdivision into districts. Regulations relating to the granting, refusal and revocation of licenses may be different within the several divisions of subdivisions; *Provided, however, that such regulations governing adjudicatory proceedings shall be uniform throughout the state;*

(3) To hold hearings *required or permitted by Chapter 243 and this Act,* subpoena witnesses, compel their attendance, administer oaths, examine any person under oath and require the production of any books or papers relative to the inquiry, regardless of whether the witnesses are licensees. The power provided in this subsection may be delegated by the board to any member or employe of the department. Provisions of the Rules of Civil Procedure shall apply to subpoenas issued pursuant to this subsection, but such subpoenas shall be effective throughout the state and shall be enforceable by petition to a court of competent jurisdiction. The department may pay witnesses the per diem and mileage provided in KRS 421.010;

(4) To conduct hearings and appeals *in accordance with this Act* under KRS 241.150, 241.200, 243.470 and 243.520 and render decisions upon the subjects of the hearings and appeals;

(5) To *refuse to issue,* suspend, revoke or cancel for cause, after *notice and* a hearing *in accordance with this Act,* any license issued under KRS 243.020 to 243.670;

(6) If violation of KRS chapter 241, KRS 243.020 to 243.670 or KRS chapter 244 has taken place on the premises within the knowledge of the owner, or was committed or permitted in or upon premises owned by a licensee, the board shall, *after notice and opportunity for hearing in accordance with this Act,* prohibit the issuance of a license for the premises until the expiration of two (2) years from the time the offense was committed;

(7) To suspend a license *in the same manner by which and* for any cause for which the board is authorized to exercise its discretion as to revoking a license;

(8) To make rules and regulations and to provide forms, that may be necessary to regulate the alcoholic beverage industry and to make KRS 244.380 to 244.470 effective. Before any such rule or regulation is adopted, the board, after notice, shall hold a public hearing at its offices in Frankfort, Kentucky, not less than five (5) days before said rule or regulation is to be adopted. Notice of such hearing and of the proposed rule or regulation, shall be given in the following manner:

(a) By publication pursuant to KRS chapter 424; and

(b) By registered letter to the principal office of any organized group or groups of licensees, or class thereof, where such organization has made a request, in writing, to be so notified.

In the event of an emergency the provisions of KRS 13.085 shall become applicable. When any rule or regulation is adopted, the same shall be filed and become effective in the manner and time prescribed in KRS chapter 13.

Section 162. KRS 243.110 is amended to read as follows:

(1) Except as provided in subsection (2) of this section, each kind of license listed in KRS 243.030 shall be inconsistent with every other kind listed in that section and no person holding a license of any of those kinds shall apply for or hold a license of another kind listed in KRS 243.030.

(2) The holder of a retail package license may also hold either a retail drink license or a special nonindustrial alcohol license. The holder of a transporter's license may also hold a special storage or warehouse license. The holder of a wholesaler's license may also hold a special nonbeverage alcohol vendor's license, a special industrial alcohol license or a vintner's license. The holder of a distiller's license may also hold a rectifier's license.

(3) Any person may hold two (2) or more licenses of the same kind.

(4) An applicant shall not evade the prohibition against applying for or holding licenses of two (2) kinds by applying for a second license under the cloak of a separate corporate entity. The state administrator may examine into the ownership and management of corporations which apply for or hold licenses, and shall deny the application for a license to any party substantially interested in an incompatible license*; but such denial shall only be effective after notice and opportunity for a hearing in accordance with this Act*.

Section 163. KRS 243.410 is amended to read as follows:

(1) If the surety on bonds required by KRS 243.400 becomes unsatisfactory in the opinion of the board, the board may require the brewer, distiller, rectifier, vintner or wholesaler to file a new bond with satisfactory surety in the same amount. Upon failure to file a new bond with satisfactory surety, the board shall forthwith suspend the license of the brewer, distiller, rectifier, vintner or wholesaler.

(2) If upon a hearing *in accordance with this Act*, of which the licensee shall be given five (5) days' notice in writing , the board decides that the amount of the existing bond is insufficient, the licensee shall forthwith, upon written *order* demand the board, file an additional bond in the same amount, manner and form, and with a surety approved by the board. If the licensee fails to comply with the demand of the board, his license shall immediately be revoked by the board.

(3) A surety on any bond required by KRS 243.400 or 243.410 shall be discharged from any and all liability to the state accruing on the bond after the expiration of sixty (60) days from the date upon which he files with the board a written request to be discharged. Such a request shall not operate to discharge the surety from any liability already accrued or that accrues before the expiration of the sixty (60) day period.

Section 164. KRS 243.450 is amended to read as follows:

(1) A license that might be issued under KRS 243.020 to 243.670 shall be refused:

(a) If the applicant or the premises for which the license is sought do not comply fully with all alcoholic beverage control statutes, the regulations of the board, all ordinances relative to the regulation of the manufacture, sale and transportation of alcoholic beverages, and all regulations of a city administrator or county administrator;

(b) If the applicant has done any act for which a revocation of license would be authorized; or

(c) If the applicant has made any false material statement in his application.

(2) A license that might be issued under KRS 243.020 to 243.670 may be refused by a state administrator for any reason which he, in the exercise of his sound discretion, may deem sufficient.

(3) No such refusal shall be effective without notice and opportunity for hearing in accordance with KRS 243.470.

Section 165. KRS 243.470 is amended to read as follows:

If a state administrator determines to reject an application he shall notify the applicant of his determination by mailing a registered letter to him, directed to the address given in his application or in the last statement filed supplementary thereto. If , *after given notice and opportunity for a hearing in accordance with this Act* within ten (10) days after the date of the mailing of that notice from the administrator the applicant indicates in writing his desire to be present and heard, he shall have the opportunity to be heard by the board or persons designated by the board. The application shall not finally be passed upon by the administrator until the board has conducted a hearing *in accordance with this Act*.

Section 166. KRS 243.480 is amended to read as follows:

(1) Upon proceedings for the revocation of any license under KRS 243.520, the alcoholic beverage control board, or the local alcoholic beverage administrator, may in its or his discretion, as the case may be, order a suspension of the license *in accordance with Section 5(6) of this Act* for any cause for which it may, but is not required to, revoke the license under the provisions of KRS 243.490 and 243.500; Provided, however, the licensee may have the alternative, subject to the approval of the alcoholic beverage control board or the

local alcoholic beverage administrator, to pay in lieu of part or all of the days of any suspension period, a sum as follows: Distillers, rectifiers, vintners, brewers and blenders, one thousand dollars ($1,000) per day; wholesale liquor licensees, four hundred dollars ($400) per day; wholesale beer licensees, one hundred dollars ($100) per day; retail drink liquor licensees, twenty-five dollars ($25.00) per day; retail package liquor licensees, twenty-five dollars ($25.00) per day; retail beer licensees, ten dollars ($10.00) per day; all remaining licensees, ten dollars ($10.00) per day.

(2) Payments in lieu of suspension collected by the alcoholic beverage control board shall be deposited in the state treasury and credited to the general expenditure fund. Payments in lieu of suspension collected by local alcoholic beverage administrators shall be deposited and used as local alcoholic beverage license tax receipts are deposited and used.

(3) Appeals from orders of suspension and the procedure thereon shall be the same as are provided for orders of revocation in KRS 243.550 to 243.590.

Section 167. KRS 243.490 is amended to read as follows:

(1) Any license issued under KRS 243.020 to 243.670 may be revoked by the state board *in accordance with this Act* if the licensee shall have violated any of the provisions of chapter 241, 243 or 244, or any rule or regulation of the said board or of the department of revenue relating to the regulation of the manufacture, sale and transportation or taxation of alcoholic beverages or if such licensee shall have violated or shall violate any act of congress or any rule or regulation of any federal board, agency or commission, or any ordinance now, heretofore, or hereafter in effect relating to the regulation of the manufacture, sale and transportation or taxation of intoxicating liquors or any rules or regulations of any local alcoholic beverage authority or any similar body heretofore in existence or authorized by the terms of chapters 241, 243 and 244 to be created, or if any clerk, agent, servant, or employe of any licensee shall violate any of the laws, regulations or ordinances above referred to, irrespective of whether the licensee knew of or permitted the violation or whether the violation was committed in disobedience of his instructions, or any such license may be revoked *in accordance with this Act* for any cause which the alcoholic beverage control board in the exercise of its sound discretion deems sufficient. A license may be revoked for any of the reasons for *and in the manner by* which the administrator would have been required to refuse a license if the facts had been known.

(2) Any license issued under KRS 243.020 to 243.670 may be revoked by the board *in accordance with this Act* if the licensee is guilty of unfair competition as defined in KRS 244.470.

Section 168. KRS 243.500 is amended to read as follows:

Any license issued under KRS 243.020 to 243.670 must be revoked or suspended *in accordance with this Act* for the following causes:

(1) Conviction of the licensee or his agent or employe for selling any illegal beverages on the premises licensed.

(2) Making any false, material statements in an application for a license.

(3) Violation of the provisions of KRS 243.670.

(4) If, within a period of two (2) consecutive years, there shall have been two (2) or more convictions of any licensee or of any of his clerks, servants, agents or employes for any violations of the terms and provisions of chapter 241, 243 or 244 or any act heretofore or hereafter in effect relating to the regulation of the manufacture, sale and transportation of alcoholic beverages or if, within such period, any licensee or any of his clerks, servants, agents or employes shall have twice been convicted of any felony or of any misdemeanor directly or indirectly attributable to the use of intoxicating liquors, or of one (1) such felony and one (1) such misdemeanor.

(5) Wilful and deliberate failure or default of a licensee to pay an excise tax or any part thereof, or any penalties imposed by or under the provisions of any statutes, ordinances or acts of congress relative to taxation, or for a violation of any rules or regulations of the department of revenue made in pursuance thereof.

(6) Revocation of any license or permit provided in KRS 243.060, 243.070, 243.600 and 243.610, or granted under any act of congress relative to the regulation of the manufacture, sale and transportation of alcoholic beverages. Any license issued under KRS 243.020 to 243.670 must be revoked or suspended *after notice and opportunity for hearing in accordance with this Act* in the case of sale of alcoholic beverages by the licensee at a price in excess of the price set by federal or state regulations.

(7) Setting up, conducting, operating or keeping, on the licensed premises, any gambling game, device, machine or contrivance, or lottery or gift enterprise, or handbook or facility for betting or transmitting bets on horse races; or permitting to be set up, conducted, operated, kept, or engaged in, on the licensed premises, any such game, device, machine, contrivance, lottery, gift enterprise, handbook or facility.

(8) Conviction of the licensee, his agents, servants, or employes for:

(a) The sale or use upon the licensed premises of those items described in KRS 218A.050 to 218A.130 as controlled substances;

(b) Knowingly permitting the sale or use by patrons upon the licensed premises of those items described in KRS 218A.050 to 218A.130 as controlled substances.

Section 169. KRS 243.520 is amended to read as follows:

A state administrator or a person designated by him may, on his own initiative or on the complaint of any person, institute proceedings to revoke any license under KRS 243.020 to 243.670. Revocation shall be had only upon five (5) days, notice to the licensee, and an opportunity *for hearing in accordance with this Act* shall be given him to be heard. All such hearings shall be before the board.

Section 170. KRS 243.550 is amended to read as follows:

Hearings upon appeals from orders of a county administrator or a city administrator, a determination of a state administrator, or upon proceedings for revocation or suspension shall be held by the board *in accordance with this Act.* The board may, at its discretion, hold the hearing in Frankfort, or in the county where the licensed premises, or the premises to be licensed, are located. The board shall control the introduction of evidence and shall hear all arguments of the parties or their counsel as it or he deems necessary or appropriate. The procedure on such hearings shall be summary and in accordance with the regulations of the board. A record of the orders appealed from or the charges filed, of the evidence heard and of all steps taken, shall be kept by the board. Decisions shall be made and orders entered only upon the vote of a majority of the board.

Section 171. KRS 243.560 is amended to read as follows:

(1) Any order of the board refusing, revoking or suspending a license may be appealed from by the applicant or licensee, and any order of the board granting or refusing to revoke or suspend a license may be appealed from by any citizen feeling himself aggrieved.

(2) The person aggrieved may *seek judicial review of any board order in accordance with this Act* , within ten (10) days after the entry of the order with which he is dissatisfied, file in the office of the clerk of the Franklin Circuit Court an attested copy of the order, of all the evidence heard, and of all the steps taken by the board relative to the contested order , but shall first post a bond to secure the costs of that action, in a sum approved by the circuit *court* clerk, with a corporate surety approved by the department of insurance as to solvency and responsibility and authorized to transact business in this state.

(3) The board and the licensee or applicant shall be necessary parties to such appeals. The circuit court clerk shall docket the case as though it were a petition in equity, and shall immediately issue a summons for the board, if the appeal is taken by an applicant or licensee, or a summons for the board and the licensee, if the appeal is prosecuted by a citizen. The summons shall be returnable in the same manner as summons in equity cases. If the appeal is from an order refusing, revoking or suspending a license, the board, when served with the summons, or such person as the board may designate, shall appear and defend the action of the board in refusing, revoking or suspending the license in question. If the appeal is from an order granting or refusing to revoke or suspend a license the burden of appearing and defending the action of the board shall be upon the licensee.

(4) No formal pleading shall be required in appeals from orders of the board.

Section 172. KRS 243.570 is amended to read as follows:

(1) The case shall be set down by the court for as early a day as possible for a hearing, and shall in all respects be expedited in the same manner as a declaratory judgment suit.

(2) *The court proceedings for review shall be conducted in accordance with this Act.* No new or additional evidence shall be introduced in the Franklin Circuit Court except as to the fraud or misconduct of some party engaged in the administration of this chapter and affecting the order appealed from, but the court shall otherwise hear the case upon the record as attested by the board, and shall in all respects dispose of the appeal in a summary manner. Its review shall be limited to determining whether or not:

(a) The board acted without or in excess of its powers;

(b) The order appealed from was procured by fraud;

(c) If questions of fact are in issue, whether or not any substantial evidence supports the order appealed from.

(3) After such a hearing the court shall enter a judgment sustaining or setting aside the order of the board appealed from or remanding the case to the board for further consideration.

(3) (4) If the appeal is from an order of the board refusing, revoking or suspending a license, the costs shall be taxed against the applicant or licensee in any event. If the appeal is from an order issuing or refusing to revoke or suspend a license, the costs shall be taxed against the citizen who, feeling himself aggrieved, has contested the order, if the order of the board issuing or refusing to revoke or suspend the license is sustained. If the order is set aside with direction to the board to refuse, revoke or suspend the license, the costs shall be taxed against the licensee.

Section 173. KRS 243.580 is amended to read as follows:

(1) No order of the board issuing a license shall become effective, and no license under that order shall be issued, until the expiration of ten (10) days after the date of the entry of the order. If , within the period of ten (10) days, an appeal from the order of the board has been filed as provided by KRS 243.560*(2)* the order shall not become effective *or such order shall be suspended if already effective* until the appeal has been finally determined.

(2) If a license is revoked or suspended by an order of the board, the licensee shall at once suspend all operations authorized under his license, except as provided by KRS 243.540, though he files an appeal in the Franklin Circuit Court from the order of revocation or suspension.

(3) No court may enjoin the operation of an order of revocation or suspension pending an appeal. If upon appeal to the Franklin Circuit Court an order of suspension or revocation is upheld, or if an order refusing to suspend or revoke a license is reversed, and an appeal is taken to the Court of Appeals, no court may enjoin the operation of the judgment of the Franklin Circuit Court pending the appeal.

Section 174. KRS 244.370 is amended to read as follows:

No whiskey produced in Kentucky, except whiskey the barrel containing which is branded "Corn Whiskey" under the internal revenue laws, shall be bottled in Kentucky or removed from this state unless such whiskey has been aged in oak barrels for a period of not less than one (1) full year; Provided, however, That whiskey aged less than one (1) year may be removed from the state and bottled, or bottled in Kentucky, if the word "Kentucky" or any word or phrase implying Kentucky origin does not appear on the front label or elsewhere on the retail container or package except in the name and address of the distiller as required by federal regulation. For violations of this section, *after notice and opportunity for hearing in accordance with this Act,* the department shall revoke the permit of the licensee from whose warehouse or premises such whiskey shall have been removed or in which such whiskey shall have been bottled.

Section 175. KRS 246.550 is amended to read as follows:

The commissioner shall conduct a public hearing *in accordance with this Act* on the question of revocation or suspension of a spray painter's license. The owner of such license shall be given notice in writing not less than ten (10) days prior to the date of such hearing, by registered and prepaid mail. The owner may appear in person, with counsel at such hearing.

Section 176. KRS 246.560 is amended to read as follows:

If the license is to be revoked or suspended, or if an application for license is refused, the commissioner shall notify the applicant or owner *of his order thereto in accordance with this Act* within ten (10) days after such decision is made. The applicant may within fifteen (15) days appeal to the circuit court in *the manner prescribed by this Act* the county in which he intends to operate his business . If appeal is taken the decision by the commissioner shall not become final until final adjudication by the circuit court. The commissioner may, however, require the posting of a reasonable bond pending final adjudication.

Section 177. KRS 249.317 is amended to read as follows:

The board shall after denying an application for a license, if petitioned by the applicant within *thirty (30)* ten (10) days of notification, or before suspending or revoking any license, *give notice and* set the matter down for a hearing *in accordance with this Act* and shall at least fifteen (15) days prior to the date set for the hearing notify the applicant or licensee in writing, which said notice shall contain an exact statement of the charges made and the date and place of the hearing. Such written notice may be served by delivery of it personally to the applicant or licensee or by mailing it by registered mail or by certified mail, return receipt requested to his last known address . The hearing shall be at the time and place prescribed by the board.

Section 178. KRS 249.321 is amended to read as follows:

The board shall notify the applicant or licensee of its decision *or order in accordance with this Act* within twenty (20) days after the hearing in the manner provided in KRS 249.317. The board upon request of the applicant or licensee shall furnish him with a definite statement of its findings of fact and its reason or reasons for refusing to grant him a license, or for the suspension of the rights of the licensee, or for the revocation of the license, as the case may be. The order of the board, if an appeal is not taken as herein provided, shall be conclusive and binding as to all questions of fact, but any applicant or licensee shall have the right to appeal from the decision of the board as provided in KRS 249.323. If an appeal is perfected as provided in KRS 249.323, the decision of the board shall be stayed until final adjudication.

Section 179. KRS 249.323 is amended to read as follows:

(1) Any applicant or licensee aggrieved by the action of the board in refusing to grant a license or in suspending or revoking a license may *seek judicial review of any board order in accordance with this Act,* within twenty (20) days after the date of notification, file in the office of the clerk of the Franklin Circuit Court, an attested copy of the record of proceedings before the board together with its findings of fact and reasons therefor, provided he shall first post bond to secure the cost of the action in such sum as may be approved by the clerk, with good and solvent surety. The board shall be a necessary party to all such appeals. The circuit clerk shall thereupon docket the case and shall immediately issue a summons for the board. No formal pleading shall be required but the case shall be set down by the court for a hearing as early as possible.

(2) No new or additional evidence may be introduced in the Franklin Circuit Court except as to fraud or misconduct of some person engaged in the administration of KRS 249.250 to 249.340 and affecting the order or decision of the board , but the court shall otherwise hear the cause upon the record as attested by the board and shall dispose of the cause in a summary manner, its review being limited to determining whether or not: (a) the board acted without or in excess of its powers; (b) the order or decision appealed from was procured by fraud; (c) if questions of fact are in issue, whether or not any substantial evidence supports the order or decision appealed from .

(3) After the hearing provided for in subsection (2) the court shall enter judgment sustaining or setting aside the order or decisions of the board.

(4) Either party aggrieved by judgment of the Franklin Circuit Court may appeal to the Court of Appeals in the manner provided in the Rules of Civil Procedure.

Section 180. KRS 250.160 is amended to read as follows:

(1) If the director or his agent finds upon examination, analysis or test, that any person has violated any of the provisions of KRS 250.020 to 250.170, he or his agent may institute proceedings to have that person convicted, or the director or his agent at his discretion may report the results of the examination to the attorney general, together with the sworn and acknowledged statement of the analyst and such other evidence of the violation as he deems necessary. The attorney general, acting personally or through the attorney representing the commonwealth in the county, district or city in which the violation occurred, shall institute proceedings at once against the person charged with violation.

(2) Prosecutions shall be instituted only in the following manner: When the director or his agent finds that any of the provisions of KRS 250.020 to 250.170 have been violated, he shall give notice to the person in whose hands the seed was found, designating a time and place for a hearing, *such notice and hearing to be given in accordance with this Act.* This hearing shall be private and the person involved may introduce evidence either in person, by agent or by attorney. If, after the hearing, or without the hearing, in case the person fails to appear, the director or his agent decides that the evidence warrants prosecution, he shall proceed as provided in this section.

(3) In any prosecution arising from KRS 250.020 to 250.170 a certified analysis or test by the experiment station shall be considered as competent evidence, but upon motion of the accused, the analyst whose signature is attached to the certificate of analysis shall be required to appear as a witness and be subject to cross-examination, or as a witness for the accused.

Section 181. KRS 250.210 is amended to read as follows:

The experiment station or its designated agency may, *after notice and hearing in accordance with this Act,* withhold certification for two (2) or more years from any grower of seeds or plants parts who is engaged in or is attempting to engage in any dishonest practices for the purpose of evading KRS 250.180 to 250.230 or standards and regulations laid down by the experiment station or its agency, relative to certification.

Section 182. KRS 250.511 is amended to read as follows:

(1) No person shall manufacture a commercial feed in this state, unless he has filed with the director on forms provided by the director, his name, place of business and location of each manufacturing facility in this state.

(2) No person shall distribute in this state a commercial feed, except a customer-formula feed, which has not been registered pursuant to the provisions of this section. The application for registration shall be submitted in the manner prescribed by the director. Upon approval by the director the registration shall be issued to the applicant. A registration shall continue in effect unless it is canceled by the registrant or unless it is canceled by the director pursuant to subsection (3) of this section.

(3) The director is empowered to refuse registration of any commercial feed not in compliance with the provisions of KRS 250.491 to 250.631 and to cancel any registration subsequently found not to be in compliance with any provision of KRS 250.491 to 250.631: Provided, That no registration shall be refused or canceled unless the registrant shall have been given *notice and* an opportunity to be heard, *in accordance with this Act,* before the director and to amend his application in order to comply with the requirements of KRS 250.491 to 250.631.

Section 183. KRS 250.710 is amended to read as follows:

The commissioner, *after notice and hearing in accordance with this Act,* shall notify *the parties* any applicant or owner by certified mail, return receipt requested or by registered mail of any decision to refuse to grant a registration or to revoke a registration within ten (10) days after such decision , and the *parties shall have the right to* applicant or owner shall have thirty (30) days after the notification within which to petition the commissioner for a rehearing. *Notwithstanding any such right to a rehearing, any person aggrieved by the commissioner's decision to refuse to grant or to revoke a registration may seek judicial review of the decision in accordance with this Act.* The commissioner shall within ten (10) days after a the rehearing *scheduled and conducted in accordance with this Act,* notify the *parties* applicant or owner of his decision, and if the decision be unfavorable, *any aggrieved person may, in accordance with this Act* the applicant or owner shall have thirty (30) days within which to appeal the decision to the Franklin Circuit Court. If the owner takes an appeal within the time herein provided, the revocation by the commissioner shall not become final until finally adjudicated, however the commissioner may require the posting of a reasonable and appropriate bond pending final adjudication.

Section 184. KRS 251.310 is amended to read as follows:

(1) If any person feels aggrieved by any action of the local board or of the sealer or any other official, he may appeal and submit his complaint in writing to the state board. The state board shall, *in accordance with this Act* as soon as possible , set the matter down for hearing before it, at a place desirable from the standpoint of the character of the controversy, the locality of the grain and the residence of the parties involved. Likewise, the local board may present to the state board any proper complaint against any warehouseman and the procedure shall be as nearly as practicable the same as in the case of charges filed by owners.

(2) The decision of the state board on appeal *may be reviewed in circuit court in accordance with this Act* shall be final.

Section 185. KRS 251.510 is amended to read as follows:

The board shall, after denying an application for a license, if petitioned by the applicant within *thirty (30)* fifteen (15) days of notification, or before suspending or revoking any license, *give notice and* set the matter down for a hearing, *in accordance with this Act* and shall, at least fifteen (15) days prior to the date set for the hearing, notify the applicant or licensee in writing. The notice shall contain an exact statement of the charges made and the date and place of the hearing. Such written notice may be secured by personal delivery to the applicant or licensee or by mailing it by certified mail, return receipt requested or by registered mail to his last known address . The hearing shall be at the time and place prescribed by the board.

Section 186. KRS 252.210 is amended to read as follows:

(1) Any person in interest or affected by any order of the commissioner or state apiarist may appeal therefrom to the commissioner within five (5) days of the service of such order upon him setting forth in writing specifically and in full detail the order on which a hearing is desired, and every reason why such order is deemed unreasonable.

(2) On receipt of such appeal the commissioner shall with reasonable promptness order a hearing thereon and consider and determine the matters in question. Notice of the time and place of hearing shall be given to the petitioner and to such other persons as the commissioner may direct *in accordance with this Act.* Such appeal shall suspend the operation of the order appealed from except as to the orders of the commissioner promulgating a quarantine as provided in KRS 252.200. All hearings of the commissioner shall be open to the public, *shall be conducted in accordance with this Act,* and his decisions shall be final. The appellant may be represented by an attorney.

Section 187. KRS 252.230 is amended to read as follows:

The commissioner may at any time revoke any certificate for cause, *in accordance with this Act,* including any violation of KRS 252.180 to 252.250, or nonconformity with any rule or order promulgated under KRS 252.180 to 252.250.

Section 188. KRS 253.110 is amended to read as follows:

Except as otherwise provided herein and except as may be directed by the board, the powers, duties and functions vested by this chapter in the board shall be exercised and performed by the commissioner. The board may adopt such rules and regulations and hold hearings, *in accordance with this Act,* as required to carry out the provisions and intent of this chapter.

Section 189. KRS 257.440 is amended to read as follows:

Any permit may be suspended or canceled by the livestock sanitary division, after opportunity for a hearing *in accordance with this Act*, for any violation of KRS 257.370 to 257.460 or the regulations promulgated thereunder. Any person who is refused a permit or whose permit is revoked may appeal such refusal or revocation to the circuit court *in accordance with this Act* of Franklin County .

Section 190. KRS 260.560 is amended to read as follows:

The department shall administer all provisions and exercise all administrative powers in the egg marketing law. The department may adopt reasonable rules and regulations necessary to carry out the provisions of the egg marketing law. *All licensing or administrative adjudicatory proceedings shall be conducted in accordance with this Act.*

The department may conduct hearings, make examinations, administer oaths, and subpoena witnesses to the extent necessary for proper administration of the egg marketing law.

Section 191. KRS 260.580 is amended to read as follows:

The department shall prescribe reasonable regulations setting up standards governing the form and schedule for processing applications for egg licenses, the determination of whether an application for license shall be granted or denied, and the procedures and grounds for the suspension and revocation of a license. *Procedures for such denial, suspension, and revocation shall be in accordance with this Act.*

Section 192. KRS 260.590 is amended to read as follows:

Any order of the department refusing, revoking or suspending an egg license may be appealed by the aggrieved party to the Franklin Circuit Court in the manner provided in *this Act* the Rules of Civil Procedure for appeals from inferior courts . Either party may appeal the judgment of the Franklin Circuit Court to the Court of Appeals in the manner provided in the Rules of Civil Procedure.

Section 193. KRS 260.715 is amended to read as follows:

(1) The commission is authorized and empowered:

(a) To call together milk dealers or handlers and producer-handlers for the purpose of inquiry into marketing practices prevailing from time to time in this state, and if need be, to conduct investigations and/or hearings in connection with such practices for the purpose of making findings relative to any marketing practice found to exist within this state involving the sale or distribution of milk, cottage cheese, or frozen dairy products covered by KRS 260.675 to 260.760, and thereafter to promulgate reasonable rules or regulations for the elimination of any such practice found to be contrary to the provisions of KRS 260.675 to 260.760; and

(b) To establish as a public record, *after hearing in accordance with this Act,* the minimum prices applicable to the milk deliveries of producers to a processor or a distributor. Such prices shall be used solely for the purpose of computing the cost of a processor or a distributor pursuant to KRS 260.680 (12)(b). These minimum prices shall, in the discretion of the commission, be established for a processor or a distributor located or distributing milk or milk products in marketing areas as defined by counties or other appropriate geographical subdivision.

(2) Upon receipt of a written complaint or upon the commission's own motion, the commission may initiate proceedings, *in accordance with this Act,* for the purpose of hearing and investigating evidence of the failure or refusal of any person to comply with the provisions of KRS 260.675 to 260.760 or the rules, regulations and orders of the commission issued thereunder after first giving five (5) days' notice to the alleged violator, *in accordance with this Act* as to the date and time fixed for the hearing and the nature of the charge or charges . Each witness required to attend the hearing shall be entitled to receive mileage customarily paid to the witnesses in the courts of the commonwealth. The commission shall not be bound by technical rules of evidence, except as may be required by the applicable administrative procedure laws of the commonwealth.

(3) The commission shall have the power during the course of an investigation or hearing to issue subpoenas requiring the attendance and testimony of, or the production of books and records by, any person believed to have information of importance to the hearing or investigation, or possessing any books or records of importance to the hearing or investigation.

(4) Any person who refuses to obey a subpoena issued by the commission, or refuses to be sworn or affirmed, or testify, or who is guilty of any contempt after summons to appear, may be punished as for contempt of court. For this purpose, an application may be made by the commission to the court of the circuit within whose territorial jurisdiction the hearing or investigation is being conducted.

(5) Every rule, regulation or order of the commission shall be posted for public inspection in the main office of the commission and copies of such a rule, regulation or order shall be made available and *served on* mailed to all licensees and producer groups and organizations affected thereby *in accordance with this Act.*

Such rule, regulation or order of the commission, when duly posted or when properly served, shall have the force and effect of law.

Section 194. KRS 260.740 is amended to read as follows:
Before refusing to grant or to reissue, or before suspending or revoking a license, the commission shall give such licensee an opportunity to be heard and shall give notice *and opportunity for hearing in accordance with this Act* to such licensee by registered mail or by certified mail, return receipt requested at least five (5) days prior to the hearing containing a statement of the matters complained of. After such hearing and after reaching a decision, the commission shall notify the licensee by registered mail or by certified mail, return receipt requested within ten (10) days .

Section 195. KRS 260.830 is amended to read as follows:
The director may revoke or suspend any license issued under authority of KRS 260.775 to 260.845; Provided, however, That such revocation or suspension shall occur only when the licensee has failed to comply with the provisions of KRS 260.775 to 260.845 or the rules and regulations issued thereunder, and provided that such revocation or suspension shall occur only upon written recommendation to the director by the examining board and after the licensee has had an opportunity, upon due notice, at a hearing before the board, to show cause why his license should not be revoked or suspended. *Such hearing shall be scheduled and conducted in accordance with this Act.*

Section 196. KRS 260.835 is amended to read as follows:
Upon the revocation of any license, the licensee may within sixty (60) days appeal the revocation order of the director by filing suit in the Franklin Circuit Court *in accordance with this Act.*

Section 197. KRS 261.290 is amended to read as follows:
The department, with the approval of the board, may refuse to grant, or may revoke or suspend any license issued under the provisions of this chapter for any violation of the provisions of this chapter or any applicable provision of KRS chapter 257. *Such refusal or denial, revocation, or suspension shall be in accordance with this Act.*

Section 198. KRS 262.460 is amended to read as follows:
(1) A board that has adopted land-use regulations shall provide by ordinance for the establishment of a board of adjustment consisting of three (3) members, each to be appointed for a term of three (3) years, except that the members first appointed shall be appointed for terms of one (1), two (2) and three (3) years, respectively.
(2) The members of the board of adjustment shall be appointed by the commission, with the advice and approval of the board of the district for which the board of adjustment has been established.
(3) Members of the board of adjustment shall be removable, upon notice and hearing *in accordance with this Act*, for neglect of duty or malfeasance in office, but for no other reason. The hearing shall be conducted jointly by the commission and the board of the district.
(4) Vacancies on the board of adjustment shall be filled in the same manner as original appointments, and shall be for the unexpired term.
(5) Members of the commission and the board shall be ineligible to appointment as members of the board of adjustment.

Section 199. KRS 271A.595 is amended to read as follows:
(1) The certificate of authority of a foreign corporation to transact business in this state may be revoked by the secretary of state upon the conditions prescribed in this section when:
(a) The corporation has failed to file its annual report within the time required by this chapter, or has failed to pay any fees, taxes or penalties prescribed by law when they have become due and payable; or
(b) The corporation has failed to appoint and maintain a registered agent in this state as required by this chapter; or
(c) The corporation has failed, after change of its registered office or registered agent, to file in the office of the secretary of state a statement of such change as required by this chapter; or
(d) The corporation has failed to file in the office of the secretary of state any amendment to its articles of incorporation or any articles of merger within the time prescribed by this chapter; or
(e) A misrepresentation has been made of any material matter in any application, report, affidavit, or other document submitted by such corporation pursuant to this chapter.
(2) No certificate of authority of a foreign corporation shall be revoked by the secretary of state unless:
(a) He shall have given the corporation not less than sixty (60) days' notice thereof *and opportunity for hearing in accordance with this Act* by mail addressed to its registered office in this state ; and

(b) The corporation shall fail prior to revocation to file such annual report, or pay such fees, taxes or penalties, or file the required statement of change of registered agent or registered office, or file such articles of amendment or articles of merger, or correct such misrepresentation.

Section 200. KRS 271A.615 is amended to read as follows:

Each domestic corporation, and each foreign corporation authorized to transact business in this state, shall file, within the time prescribed by this chapter, an annual report setting forth:

(1) The name of the corporation and the state or country under the laws of which it is incorporated; and

(2) The address of the registered office of the corporation in this state, and the name of its registered agent in this state at such address, and, in case of a foreign corporation, the address of its principal office in the state or country under the laws of which it is incorporated.

(3) Whenever a five-year period has elapsed or shall elapse during which period a domestic or foreign corporation has not filed with the Secretary of State either a statement verifying the correctness of the location and post office address of its registered office and the name of its agent for the service of process or the annual report required by this chapter, the Secretary of State shall mail to the corporation at its registered office a notice that if the required statements and/or reports are not filed within six months after the mailing of the notice, the certificate of incorporation will be revoked, if a domestic corporation, or withdrawn, if a foreign corporation. If the required statements and/or reports are not received within six months from the date on which the notice was mailed, the Secretary of State shall, *after notice and hearing in accordance with this Act,* revoke or withdraw the certificate of incorporation as provided above and mail notice thereof to the corporation at its registered office.

Section 201. KRS 276.340 is amended to read as follows:

(1) All complaints made to the railroad commission under the provisions of this chapter shall be in writing.

(2) Before conducting a hearing under the provisions of this chapter, the commission shall give the carrier complained of not less than ten (10) days' notice , by letter mailed to an officer or agent of the carrier, stating the time and place of the *and opportunity for* hearing *in accordance with this Act* and the nature of the complaint or matter to be investigated .

(3) In any hearing under the provisions of this chapter, the commission shall hear and reduce to writing all evidence adduced by the parties.

(4) The commission may adopt reasonable and proper rules *in accordance with this Act* to govern its proceedings in all investigations and hearings.

Section 202. KRS 276.375 is amended to read as follows:

This section may be referred to as the "Railroad Commission Judicial Review Act."

(1) This section governs judicial review of final decisions of the Kentucky railroad commission only.

(2) Any party to a proceeding before the Kentucky railroad commission (hereinafter referred to in this section as the commission) who has exhausted all administrative remedies available within the commission, and who is aggrieved by a final decision of the commission, is entitled to judicial review of such final decision *in accordance with this Act* under this section, but not otherwise.

(3) The commission may, in accordance with its general rules of practice, and if sufficient reason therefor be made to appear, grant applications for rehearing, reargument, modification or reconsideration of its orders.

(4) If after rehearing, reargument or reconsideration of a decision or order, it shall appear that the original decision or order is in any respect unjust or unwarranted, the commission may reverse, change or modify the same accordingly. Any decision or order made after rehearing, reargument or reconsideration, reversing, changing or modifying the original determination shall be subject to the same provisions with respect to rehearing, reargument or reconsideration as an original order.

(5) Where application for rehearing, reargument, reconsideration or modification of a decision or order of the commission is made in accordance with the provisions of this section and the rules and regulations of the commission, and the decision or order has not yet become effective, the decision or order shall be stayed or postponed pending disposition of the matter by the commission. If the decision or order has become effective, the making of such an application shall not excuse any person from complying with or obeying the decision or order or operate to stay or postpone the enforcement thereof, without the special order of the commission. Provided, however, that the commission must act on such petition within 20 days of its filing with the commission and the failure to so act results in such petition being denied as a matter of law and the decision or order in question thereupon becomes final and subject to judicial review pursuant to the provision of this section.

(6) When an application for rehearing, reargument, reconsideration or modification of any commission decision or order shall have been made and shall have been denied, either expressly or as a matter of law, or after rehearing, reargument or reconsideration, otherwise disposed of by the commission, a suit to review, enjoin, suspend or set aside such decision or order, in whole or in part, may be brought under the provisions of this section, but not otherwise.

(7) Suits to review, enjoin, suspend, or set aside final commission decisions or orders are instituted by filing a petition in the Franklin Circuit Court within 20 days after the party bringing such suit is served with the decision or order sought to be reviewed, enjoined, suspended or set aside, within 20 days of the day a decision or order becomes final under subsection (5) of this section or within 20 days after the party bringing such suit is served with an order disposing of a petition for rehearing, reargument, reconsideration or modification. Copies of the petition shall be served upon the commission and all parties to the commission proceeding sought to be reviewed.

(8) All actions specified in subsection (7) of this section shall be brought by or against the Kentucky railroad commission.

(9) Any party or parties in interest to the proceedings before the commission, in which a decision or order is made, may appear as parties on their own motion and as of right, and be represented by their counsel, in any action involving the review of such decision or order or any part thereof.

(10) The pendency of an action to review, enjoin, set aside or suspend any order of the commission shall not of itself stay or suspend the operation of the order, but the court may, in the manner provided by law, and subject to the provisions of subsection (11) hereof, restrain or suspend, in whole or in part, the operation of the order pending the final hearing and determination of the action.

(11) Subject to the exceptions enumerated in this subsection, injunctive relief may be sought and granted in the manner provided by law. Provided, however, that in no event or under any circumstances shall any court, clerk of court, or county judge grant or issue any temporary restraining order or temporary injunction during the pendency of any action under this section unless and until the party requesting such restraining order or temporary injunction has given adequate bond as required by Kentucky Rule of Civil Procedure 65.05, the provisions of any other sections of Kentucky Revised Statutes, rules, or cases to the contrary notwithstanding. The court, clerk of court, or county judge shall have no power or discretion to relieve any applicant for a temporary restraining order or temporary injunction from the requirement of posting such bond. Provided, further, that no temporary restraining order or preliminary injunction enjoining or restraining the collection of increased rates and charges, shall be issued in cases where the commission has approved, authorized or required tariffs of increased rates or charges, when one of the provisions of such tariffs requires the railroads collecting such increased charges to refund to the persons paying such charges the difference between the rate or charge collected and the rate or charge finally approved, authorized or required by the commission. In all such cases, the commission decision or order shall become effective pending review under this section.

(12) Within *20* 30 days after the service of the petition, or within such further time as may be allowed by the court, the commission shall transmit to the reviewing court the original or a certified copy of the entire record of the proceeding under review. The cost of preparing and certifying the record (which shall not exceed the rates allowed the official court reporter) shall be paid to the commission by the party taking the appeal, and taxed as part of the costs, to be paid as directed by the court upon final determination of the action. Copies of the record shall be furnished at cost to any party to the proceedings. By stipulation of all parties to the proceedings, the record may be shortened. A party unreasonably refusing to limit the record may be taxed by the court for the additional costs.

(13) If, before the date set for hearing, application is made to the court for leave to present additional evidence, and it is shown to the satisfaction of the court that the additional evidence is material and that there were good reasons for failure to present it in the proceeding before the commission, the court may order that the additional evidence be taken before the commission upon conditions determined by the court. The commission may modify its findings, conclusions, decisions or orders by reason of the additional evidence and shall file that evidence and any modifications, new findings, new conclusions, new decisions or new orders with the reviewing court.

(14) The review shall be conducted by the court without a jury and shall be confined to the record of the proceeding before the commission. In cases of alleged irregularities in procedure before the commission, not shown in the record, proof thereon may be taken in the court. The court, upon request, *may* shall hear oral argument and receive written briefs. In all review actions under this section, the burden of proof shall be borne by the party seeking to enjoin, suspend, set aside or vacate the commission's decision or order, in whole or in part.

(15) The reviewing court shall:

(a) Compel commission action unlawfully withheld or unreasonably delayed; and

(b) Hold unlawful and set aside commission action, findings, conclusions, decisions and orders *in accordance with the provisions of this Act* found to be

1. Arbitrary or capricious, characterized by abuse of discretion, or otherwise not in accordance with the law;
2. Contrary to constitutional right, power, privilege or immunity;
3. In excess of statutory jurisdiction or authority, or limitations, or short of statutory right;
4. Deficient because of the commission's failure to observe procedures required by law; or
5. Unsupported by the preponderance of the reliable, probative, and substantial evidence on the record as a whole.

In making the foregoing determinations, the court shall review the whole record or those parts of it cited by a party, and due account shall be taken of the rule of prejudicial error.

Section 203. KRS 278.070 is amended to read as follows:

The governor may remove any commissioner for cause, after giving him a copy of the charges against him and an opportunity of being publicly heard in person or by counsel in his own defense upon not less than ten (10) days' notice *and opportunity for hearing in accordance with this Act.* If a commissioner is removed, the governor shall file in the office of the secretary of state a complete statement of all charges against the commissioner and his findings thereon, and a complete record of the proceedings. Any commissioner so removed may bring action in the proper court *in accordance with this Act* to determine whether or not he was legally removed in accordance with this section.

Section 204. KRS 278.190 is amended to read as follows:

(1) Whenever any utility files with the commission any schedule stating new rates, the commission may, upon its own motion, or upon complaint as provided in KRS 278.260, and upon reasonable notice, enter upon a hearing *conducted as required by KRS 278.310* concerning the reasonableness of the new rates.

(2) Pending such hearing and the decision thereon, and after notice to the utility, the commission may, at any time before said schedule becomes effective, suspend the operation of said schedule and defer the use of such rate, charge, classification or service, but not for a longer period than five (5) months beyond the time when it would otherwise go into effect; and after such hearing, either completed before or after the rate, charge, classification or service goes into effect, the commission may make such orders with reference thereto as it deems proper in the matter. If the proceeding has not been concluded and an order made at the expiration of such five (5) months the utility may place the proposed change of rate, charge, classification or service in effect at the end of such period after notifying the commission, in writing, of its intention so to do. Where increased rates or charges are thus made effective, the commission may, by order, require the interested utility or utilities to maintain their records in such manner as will enable them, or the commission, or any of its customers, to determine the amounts to be refunded and to whom due in the event a refund is ordered, and upon completion of the hearing and decision may, by further order, require such utility or utilities to refund to the persons in whose behalf such amounts were paid such portion of such increased rates or charges as by its decision shall be found unreasonable. Provided, however, if the commission, at any time, during said five (5) months' suspension period, finds that an emergency exists or that the company's credit or operations will be materially impaired or damaged by the failure to permit said rates to become effective during said five (5) months' period, said commission may, after any hearing or hearings *conducted as required by KRS 278.310,* permit all or a portion of said rates to become effective under such terms and conditions as the commission may, by order, prescribe.

(3) At any hearing involving the rate or charge sought to be increased, the burden of proof to show that the increased rate or charge is just and reasonable shall be upon the utility and the commission shall give to the hearing and decision of such questions preference over other questions pending before it and decide the same as speedily as possible, and in any event not later than ten (10) months after the filing of such schedules.

(4) In the event the commission, by order, directs any utility to make a refund, as hereinabove provided, of all or any portion of such increased rates or charges, the utility shall make the same within sixty (60) days after a final determination of the proceeding by an order of the court or commission with or without interest in the discretion of the commission. If the utility fails to make such refund within sixty (60) days after such final determination, any party entitled to such refund may, after ten (10) days' written demand, bring an action therefor in any court of competent jurisdiction of this state, and may recover, in addition to the amount of the refund due, legal interest, court costs and reasonable attorney's fees. No such action may be maintained unless instituted within one (1) year after such final determination. Any number of persons entitled to such refunds may join in as plaintiffs in a single action and the court shall render a judgment severally for each plaintiff as his interest may appear.

Section 205. KRS 278.260 is amended to read as follows:

Upon a complaint in writing made against any utility by any mercantile, agricultural or manufacturing society, or by any body politic or municipal organization, or by any public utility, or by any ten (10) patrons of the utility complained of, or by any ten (10) complainants of all or any of the aforementioned classes, that any rate in which the complainant is directly interested is unreasonable or unjustly discriminatory, or that any regulation, measurement, practice or act affecting or relating to the service of the utility or any service in connection therewith is unreasonable, unsafe, insufficient or unjustly discriminatory, or that any service is inadequate or cannot be obtained, the commission shall proceed, with or without notice, to make such investigation as it deems necessary or convenient. The commission may also make such an investigation on its own motion. No order affecting the rates or service complained of shall be entered by the commission without a formal public hearing *conducted as required by KRS 278.310.*

Section 206. KRS 278.310 is amended to read as follows:

(1) The commission shall fix the time and place for each hearing held by it, and shall serve notice *and schedule and conduct the* thereof upon the utility and the complainant not less than twenty (20) days before the time set for the hearing *in accordance with this Act.* The commission may dismiss any complaint without a hearing if, in its opinion, a hearing is not necessary in the public interest or for the protection of substantial rights.

(2) All hearings and investigations before the commission or any commissioner shall be governed by rules adopted by the commission *in accordance with this Act* ,and in the conduct thereof neither the commission nor the commissioner shall be bound by the technical rules of legal evidence.

(3) The complainant and the person complained of shall be entitled to be heard in person or by attorney and to introduce evidence.

Section 207. KRS 278.510 is amended to read as follows:

(1) No telephone company doing an exchange business in a city shall consolidate with any other telephone company doing an exchange business in the same city, or purchase, lease or operate the plant or line of any such company, until the proper city authorities have found, after such investigation as they deem necessary, that no substantial public benefits result from the separate existence of the companies and that actual competitive conditions do not exist, and have stated their finding in a resolution consenting to such consolidation, lease, sale or operating arrangement.

(2) No telephone company doing a toll line business shall consolidate with any other company doing a like business whose lines serve the same communities or localities, or purchase, lease or operate the plant or lines of any such company until the public service commission has found, after such investigation as it deems necessary, that no substantial public benefits result from the separate existence of the companies and that actual competitive conditions do not exist, and has stated its finding in a resolution consenting to such consolidation, lease, sale or operating arrangement. Whenever a joint application of two (2) or more such telephone companies requesting such finding and consent is filed with the public service commission, the commission shall make such investigation, hold such hearings *in accordance with this Act*, examine such witnesses and require the production of such books, papers, and records as it deems pertinent to the determination of the application, and shall grant or withhold such consent as the facts warrant.

(3) The public service commission shall have jurisdiction of those matters set out in $YSM201 of the constitution that relate to telephone companies, and shall enter in its minutes a record of its acts in relation thereto.

Section 208. KRS 278.530 is amended to read as follows:

(1) Whenever any telephone company desires to connect its exchange or lines with the exchange or lines of another telephone company and the latter refuses to permit this to be done upon reasonable terms, rates and conditions, the company desiring the connection may proceed as provided in subsection (2) or as provided in subsection (3) of this section.

(2) The company desiring the connection may file a written statement with the public service commission setting out the reasons why the connection is desired and the points at which the connection should be made, and giving the name and address of the owner or chief officer residing in this state of each company with which the connection is desired. The secretary of the commission shall thereupon cause a copy of the written statement to be served upon the companies owning or operating such lines or exchanges, by mailing a copy to the owner or chief officer residing in this state, and shall fix a date , not earlier than ten (10) days from the date of mailing the notice, for the hearing of the application *in accordance with this Act.* Upon the day so fixed for the hearing, the companies may respond in writing to the application, and either side may introduce such testimony as it desires and be heard by attorneys. After the hearing is completed the commission shall make its finding and enter it in a book to be kept for that purpose , and shall *serve* mail a copy thereof to each side *in accordance with this Act*; and if the commission directs the connection to be made it shall indicate the points where the connection is to be made, the number of wires to be connected, the terms and conditions and the rates to be charged, and the division of the rates charged between the companies handling the messages. The cost of making the connection shall be borne equally by the parties. If any company refuses to make a connection for a period of thirty (30) days after the finding of the commission

directing the connection to be made, the company desiring the connection may make the connection and may recover one-half (1/2) of the cost thereof from the company so refusing.

(3) In lieu of the procedure provided in subsection (2) of this section, the company desiring the connection may compel the connection upon reasonable terms by suit in equity in the Franklin Circuit Court or in the circuit court of the county in which the company making the demand resides or has its chief office in this state, and the court shall, by mandatory injunction, compel the physical connection of the wires and interchange of messages, and enforce the same by contempt proceedings and in the same manner that other mandatory injunctions are enforced.

Section 209. KRS 280.100 is amended to read as follows:

(1) If, after a hearing *and* had upon ten (10) days' notice to a bridge company or ferry company, *in accordance with this Act* and a reasonable opportunity to the company to be heard , the bureau of highways finds that the company has, without good cause, violated or refused to observe any order, rule or regulation of the department, the department may, by order duly entered, suspend, revoke, alter or amend the certificate of convenience and necessity held by the company. If, after such notice and hearing, the department finds that the company has failed to comply with any of the provisions of KRS 280.010 to 280.110, the bureau shall revoke the certificate. If the certificate is revoked, the bureau shall take over the operation of the bridge or ferry.

(2) In any of the cases mentioned in subsection (1) of this section, the company may proceed under the provisions of KRS 280.110 to determine its rights.

Section 210. KRS 280.110 is amended to read as follows:

In all matters in which the bureau of highways has power and authority under KRS 280.010 to 280.100, it may, *in accordance with this Act,* hear applications and complaints, issue subpoenas, compel the attendance of witnesses, require persons to testify under oath, administer oaths, and issue process, orders, opinions and decisions, but from each decision, order or regulation of the department an appeal may be taken to the Franklin Circuit Court, and from that court to the Court of Appeals. Such appeals to the circuit court or the Court of Appeals shall *be taken in accordance with this Act* have precedence of all other cases pending. The proceedings had before the department and the evidence heard before it shall be certified to the circuit court when an appeal is taken, and no other evidence shall be heard by the circuit court or by the Court of Appeals.

Section 211. KRS 281.600 is amended to read as follows:

The bureau of vehicle regulation shall exercise all administrative functions of the state in relation to motor transportation as defined in this chapter, and shall apply, as far as practicable, the administrative and judicial interpretations of the federal motor carrier act. It shall have the right to regulate motor carriers as provided in this chapter, and to that end may establish reasonable requirements with respect to continuous and adequate service of transportation, systems of accounts, records and reports, preservation of records and safety of operation and equipment. It may issue subpoenas, subpoenas duces tecum and orders of personal attendance of witnesses, and production of pertinent records, for any proceeding before it, and permit the taking of depositions, all in accord with *the provisions of this Act,* the Rules of Civil Procedure and it shall have the power to make such rules and regulations as it may deem necessary to carry out the provisions of this chapter. The bureau shall have the authority to promulgate regulations regarding safety requirements for motor vehicles and the method of operation, and any motor vehicle operating contrary to such safety rules and regulations shall be in violation of this section.

Section 212. KRS 281.630 is amended to read as follows:

(1) A certificate shall be issued to any qualified applicant therefor, authorizing the whole or any part of the operation covered by the application, if it is found that the applicant is fit, willing and able properly to perform the service proposed and to conform to the provisions of this chapter and the requirements and the rules and regulations of the bureau thereunder, and further that the existing transportation service is inadequate, and that the proposed service, to the extent to be authorized by the certificate, is or will be required by the present or future public convenience and necessity, and that the proposed operation, to the extent authorized by the certificate, will be consistent with the public interest and the transportation policy declared in this chapter; otherwise such application shall be denied, provided, however, that nothing herein shall be construed so as to require the bureau to give, to any existing carrier authorized to render service to, from or between any point on the route proposed to be served by the applicant, any notice regarding the quality or quantity of its service to, from or between such points or to require the bureau to give to such existing carrier any opportunity to improve its existing service or to render the service found to be needed before the issuance of a certificate to the applicant.

(2) In granting a certificate, the order, among other things, shall specify the route or routes of service and territory to be served, provided that where the certificate to be granted specifies a route or routes or portion of a route or routes common to a certificate or certificates authorizing the same type of operation held by the applicant, all such certificates shall constitute but a single operating authority over that portion of the route or routes common to the certificates. The order granting a certificate shall not limit the number of vehicles to be operated by the motor carrier except that, in the granting of a certificate for the operation of taxicabs, the order shall specify the maximum number of taxicabs to be operated thereunder.

(3) A carrier shall be entitled to have issued to it by the bureau as many certificates, and of such types, as will cover its entire authorized operation.

(4) A permit shall be granted to any qualified applicant therefor authorizing in whole or in part the operations covered by the application, if it appears from the application and the hearing held thereon *in accordance with this Act* that the applicant is fit, willing and able properly to perform the service of a contract carrier by motor vehicle and to conform to the provisions of this chapter and the lawful requirements, rules and regulations of the bureau thereunder, and that the proposed operation to the extent authorized by the permit will be consistent with the public interest and the transportation policy declared in this chapter, and that it will not unreasonably impair the efficient public service of any authorized common carrier than adequately serving the same territory, and if it further appears that the existing transportation service is inadequate, and that it appears that the proposed service is needed; otherwise such application shall be denied. The bureau shall specify in the permit the business of the contract carrier covered thereby and the scope thereof, and shall attach to it at the time of issuance, and from time to time thereafter, such reasonable terms, conditions and limitations consistent with the character of the holder as a contract carrier as are necessary to carry out, with respect to the operations of such carrier, the requirements established by the bureau.

(5) Amendment or change of route or abandonment of a certificate or permit shall be granted upon the same basis that an original certificate or permit is granted.

(6) Any certificate or permit may be sold, assigned, leased or transferred, after a hearing and notice to interested parties as provided for in KRS 281.625, provided the transferee is fit, willing and able to render the proposed service, unless it would be against the public interest, and provided further that the commissioner may approve the sale and transfer of a certificate or permit without a hearing if, after due notice of the proposed sale or transfer is given to all interested parties in accordance with the rules and regulations of the bureau, no protest is filed to the proposed sale or transfer and the commissioner believes that it will be in the public interest.

(7) For the purpose of this section, a transfer of the controlling stock of a corporation owning a certificate or permit may be considered a transfer of said certificate or permit.

(8) Upon the consummation of a merger or consolidation of motor carriers as effected under the provisions of KRS Chapter 271A, the surviving or new corporation, as the case may be, shall own and possess all of the certificates, permits, authorizations, licenses, rights, privileges, franchises and properties owned or possessed by each of such motor carriers; and if such merger or consolidation is set aside, the certificates, permits, authorizations, licenses, rights, privileges, franchises and properties acquired by the surviving or new corporation through the merger or consolidation shall become revested in the corporation from which acquired, unless disposed of, subject to such indebtedness and liens as may be equitable, and all other properties of the surviving or new corporation shall become vested in the constituent corporation in such manner as may be fair and equitable.

(9) (a) Notwithstanding the provisions of subsection (3) of this section, where a motor carrier has been granted two (2) or more certificates or permits authorizing the same type of operation over a route or routes or a portion of a route or routes common to two (2) or more of the certificates or permits, the carrier shall be deemed to possess only one operating authority over that portion of the routes common to the certificates or permits.

(b) The bureau is authorized to recall any certificates and to reissue one or more certificates covering the exact authority.

Section 213. KRS 281.640 is amended to read as follows:

Hearings before the bureau may be held at the most convenient place for the parties and witnesses. The hearing shall be conducted by an examiner *in accordance with this Act*, who shall be a practicing attorney in this state and who shall be a full-time employe of the bureau *qualified pursuant to this Act*. The examiner shall be appointed by the commissioner of the bureau. After the final conclusion of the hearing, the examiner shall make a report and recommended order, which report and recommended order shall contain a finding of fact and a conclusion of law, and such report and recommended order shall be served by mail upon each of the parties. Any of the parties thereto may, within twenty (20) days after the date of the report and recommended order, file and serve exceptions thereto and reasons in support thereof. Replies may be served and filed within twenty (20) days after the date of the filing of exceptions. Thereafter the commissioner or one (1) of the assistant commissioners shall consider and pass upon the case. When passed upon by the commissioner or when passed upon by an assistant commissioner and approved by the commissioner, the decision shall be served by mail upon all parties and shall be a final order of the bureau *shall be rendered and notice thereof provided in accordance with this Act.* The report and recommended order will not become the decision of the bureau through failure to file exceptions, but in the absence of exceptions ordinarily will be taken by the bureau as the basis of its decision. However, nothing herein contained shall prevent the commissioner from holding or conducting any hearing, referred to herein, in regard to rates, fares and charges, and his decision shall be the final order of the bureau.

Section 214. KRS 281.670 is amended to read as follows:

Whenever any motor carrier is found to be violating any of the provisions of this chapter, or any order or rule and regulation prescribed by the bureau pursuant thereto, or any of the laws of this state, or is found to be permitting any of its drivers or vehicles to violate any of the provisions of this chapter, or any order, or rule and regulation prescribed by the bureau pursuant thereto, or any of the laws of this state or is found to be unfit to carry out the duties, obligations and responsibilities of a motor carrier, the bureau may, upon complaint or upon its own motion, issue its order to such motor carrier notifying it to appear before the bureau at a fixed time and place at which time and place the bureau shall have a hearing *in accordance with this Act.* If the bureau is satisfied, after a hearing, that the motor carrier has violated or refused to observe any of the provisions of this chapter, or any order, or rule or regulation of the bureau, or any of the laws of this state, or has permitted any of its drivers or motor vehicles to violate any of the provisions of this chapter or any order, or rule or regulation prescribed by the bureau pursuant thereto, or any of the laws of this state, or has become unfit to carry out the duties, obligations and responsibilities of a motor carrier, the bureau may suspend, revoke, alter or amend any certificate or permit issued to such carrier. The renewal by the bureau of the certificate or permit of any motor carrier shall not be construed to be a waiver or condonement of any violation which occurred prior to such renewal and shall not prevent subsequent proceedings against the motor carrier therefor.

Section 215. KRS 281.695 is amended to read as follows:

(1) The bureau has authority to fix or approve the rates, fares, charges, classifications, rules and regulations of each common carrier, and to regulate operating schedules so as to insure adequate and convenient transportation service. If the bureau, after a hearing held upon reasonable notice *in accordance with this Act* upon its own motion or upon complaint, finds any existing rate to be excessive, inadequate, unreasonable or unjustly discriminatory, or finds the services rendered or facilities employed by any common carrier to be unsafe, inadequate, inconvenient or in violation of law or of the rules and regulations of the bureau, it may determine the just and reasonable rate to be charged therefor, or the reasonable, safe, adequate and convenient service to be thereafter furnished, and shall fix the same by order. The bureau need not fix the same rates as are or may be fixed by other authorities for carriers engaged in other methods of transportation.

(2) The bureau has authority to fix or approve the contracts and regulations of each contract carrier so as to insure adequate and convenient transportation service. If the bureau, after a hearing held upon reasonable notice *in accordance with this Act* upon its own motion or upon complaint, finds any existing contract to be excessive, unreasonable or unjustly discriminatory, or finds the services rendered or facilities employed by any contract carrier to be unsafe, inadequate, inconvenient or in violation of law or of the rules and regulations of the bureau, it may determine the just and reasonable amounts to be charged therefor, or the reasonable, safe, adequate and convenient service to be thereafter furnished, and shall fix the same by order.

Section 216. KRS 281.700 is amended to read as follows:

(1) No common carrier shall abandon or change any route or service, except upon an application heretofore provided for; except, however, if it becomes necessary, on account of the condition of the highways or other emergency, a common carrier may make temporary changes in route, service or schedules by notifying the bureau of such change. However, any carrier operating under a suburban bus certificate may make such changes in routes and schedules as may be necessary for the public convenience and shall not be required to notify the bureau of such changes, unless such changed condition is to continue for a period longer than ten (10) days, in which event the carrier shall notify the bureau of the additional time that it desires such change or changes to remain in effect, and the reason therefor, and the bureau may grant such extension of time without a hearing.

(2) If after the granting of a certificate or permit operation is not begun within sixty (60) days thereof, said certificate or permit will become null and void, and cannot be reinstated; Provided, however, That the bureau may grant an additional time to begin such operation, provided application therefor is made within the sixty-day period.

(3) If, after a motor carrier has operated in good faith, there is an abandonment of the whole or any part of said operation, the bureau may notify said motor carrier to immediately begin such operation, and if such motor carrier fails to do so within thirty (30) days thereof, the bureau may enter an order cancelling said

certificate or permit, *after* with or without a hearing *in accordance with this Act,* or it may enter an order requiring the motor carrier to operate such abandoned route.

Section 217. KRS 281.726 is amended to read as follows:

(1) No owner or operator of a motor vehicle used for hire shall permit such motor vehicle to be operated upon the highways unless the driver or chauffeur thereof has obtained a certificate of the department of transportation to the effect that the driver or chauffeur has met its requirements with respect to his health, vision, sobriety, intelligence, care, ability and experience. Certificates shall expire in the same month as the expiration date of the applicant's operator's license issued pursuant to KRS 186.410.

(2) No owner or operator of a motor vehicle used for hire shall permit such motor vehicle to be operated upon the highways unless the driver or chauffeur thereof is at least eighteen (18) years of age.

(3) The circuit clerk of each county shall:

(a) Act for the department of transportation for the purpose of issuing certificates and badges referred to in subsections (1) and (4) of this section;

(b) Issue a certificate, when he has determined that the applicant has fully complied with the law governing applications;

(c) Report to the department of transportation not later than the week following that in which the certificates were issued;

(d) Keep adequate records of all moneys collected and remitted to the department of transportation;

(e) Keep in his office at all times available to the department of transportation a record of all certificates issued in his county.

(4) The cost of the certificate shall be as follows: if the applicant's operator's license expires within six (6) months or less, $1.00; if within seven (7) to twelve (12) months, $2.00; if within thirteen (13) to eighteen (18) months, $3.00; and if within nineteen (19) to twenty-four (24) months, $4.00. The circuit court clerk shall retain fifty cents (50) to defray expenses of issuing the certificate and maintenance of records, and the remainder shall be paid into the state treasury and credited to the state road fund. The holder of such a certificate, at all times when operating a motor vehicle for hire, shall have the certificate in his possession indicating that he is a certified driver or chauffeur.

(5) The department may, for good cause, upon complaint or upon its own motion revoke or suspend any such certificate, and said person shall be entitled to *notice and* a hearing *in accordance with this Act* before the department of transportation *prior to such revocation or suspension.*

Section 218. KRS 281.780 is amended to read as follows:

(1) An appeal to the Franklin Circuit Court may be taken from any final order of the bureau by anyone who was a party to the proceedings before it, or from any order granting temporary authority or approval under KRS 281.632 by any motor carrier affected thereby.

(2) In the case of an appeal wherein a certificate or permit has been issued or amended or revoked or suspended or sold or transferred, the certificate or permit or its amendment shall remain in force until final disposition of the appeal.

(3) An appeal may be taken by filing a petition of appeal with the Clerk of the Franklin Circuit Court *in accordance with this Act* within twenty days after the rendition of the final order or order granting temporary authority or approval under KRS 281.632 of the department. The petition shall state completely the grounds upon which the review is sought and shall assign all errors relied upon. The appellant shall furnish a copy of the petition to each person who was a party to the hearing before the department. Summons shall be issued upon the petition directing the adverse party or parties to file answer within twenty days after service of summons. The department shall, upon being served with the summons, and within thirty days thereafter, file a copy of the record, duly certified by the commissioner, the cost of such record to be taxed as costs upon appeal. In lieu of filing of such record an abstract thereof may be filed if agreed to by all parties to the hearing.

Section 219. KRS 281.785 is amended to read as follows:

(1) *Proceedings for judicial review of the bureau's final order may be instituted in accordance with this Act* The department and each party may appear in the proceedings in the circuit court on an appeal.

(2) In case of appeals, no new or additional evidence may be introduced in the circuit court except as to fraud or misconduct of some person engaged in the administration of this chapter and affecting the order; the court shall hear the case upon the certified record or abstract thereof, and shall dispose of the case in a summary manner, its review being limited to determining whether or not the department acted without or in excess of its power, the order was procured by fraud, the order is in conformity to the provisions of this chapter, and the findings of fact in issue are supported by any substantial evidence. On such appeals, the court may, in advance of judgment and upon a sufficient showing of facts, remand the case to the department.

(3) The court shall enter judgment confirming, modifying or setting aside the order or, in its discretion, remanding the case to the department for proceedings in conformity with the directions of the court.

(2) (4) Any party may appeal from the circuit court to the Court of Appeals in accordance with the Rules of Civil Procedure , and such appeal shall have precedence of other cases pending in the Court of Appeals .

Section 220. KRS 288.450 is amended to read as follows:

(1) The commissioner shall, after investigation, issue to the applicant a license to make loans in accordance with this chapter, if the commissioner:

(a) Approves the form of the application;

(b) Finds that the financial responsibility, experience, character, and general fitness of the applicant, and of the members thereof if the applicant is a partnership or association, and of the officers and directors thereof if the applicant is a corporation, are such as to command the confidence of the community and to warrant the belief that the business of the applicant will be operated honestly, fairly, and efficiently in accordance with the purposes of this chapter;

(c) Finds that permitting such applicant to engage in such business will promote the convenience and advantage of the community; and

(d) Finds that the applicant has complied with KRS 288.440.

(2) If the commissioner does not so find, he shall not issue a license and shall notify the applicant of the denial, *provide opportunity for the applicant to have a hearing on the denial,* and return the sum paid by the applicant as a license fee, retaining the fifty dollars ($50.00) investigation fee to cover the cost of investigating the application. *Upon proper request by the applicant, the commissioner shall schedule and conduct a hearing on the denial in accordance with this Act.*

(3) The commissioner shall approve or deny every such application for license within sixty (60) days from the filing thereof with the fees unless the time is extended by a written agreement between the applicant and the commissioner.

(4) All findings of the commissioner, together with a summary of the evidence supporting them, shall be filed in the office of the commissioner as public records, open to public inspection.

Section 221. KRS 288.490 is amended to read as follows:

(1) The commissioner may revoke any license issued under this chapter if he finds:

(a) That the licensee has failed to pay his annual license fee; or

(b) That the licensee has violated any provision of this chapter or has failed to comply with any rule or regulation lawfully made pursuant thereto; or

(c) That any fact or condition then exists which clearly would have warranted the commissioner in refusing to issue a license on an original application; or

(d) That the licensee has failed to open an office for business within one hundred twenty (120) days from the date the license is granted, or has failed to remain open for business for a period of one hundred twenty (120) days, unless in each such case good cause be shown.

(2) The commissioner may suspend any license for a period not exceeding thirty (30) days, pending investigation of possible grounds for revocation under paragraphs (b) or (c) of subsection (1) of this section.

(3) Before the revocation of a license under subsection (1), or suspension under subsection (2), the licensee shall be given ten (10) days' written notice of the contemplated revocation or suspension of his license, the grounds therefor stated specifically, and a reasonable opportunity to be heard *in accordance with this Act.*

(4) The commissioner may reinstate suspended licenses or issue new licenses to a licensee whose license has been revoked if no fact or condition then exists which clearly would have warranted him in refusing originally to issue such license under this chapter.

(5) Any licensee may surrender any license by delivering it to the commissioner together with written notice that he thereby surrenders such license.

Section 222. KRS 288.500 is amended to read as follows:

Whenever the commissioner denies any application for a license under the provisions of this chapter or revokes any license issued pursuant to this chapter, he shall forthwith file in his office a written order to that effect, stating his findings with respect thereto and the reasons for his action. The commissioner shall also forthwith serve upon the *parties* applicant for license or licensee a copy of the order, and the *aggrieved person* applicant or licensee may appeal to the Circuit Court of Franklin County , within thirty (30) days after the service of a copy of the order. *Such notice of final order and appeal shall be in accordance with this Act.*

Section 223. KRS 288.640 is amended to read as follows:

This chapter or any part thereof may be modified, amended or repealed so as to effect the cancellation or authorization of any license or right of a licensee hereunder, provided that such modification, amendment or repeal shall not impair or affect the obligation of any pre-existing lawful contract between any licensee and any borrower, *and no such modification, amendment or repeal of this chapter shall be effective as against any licensee to alter, amend, limit, suspend, revoke, deny, or withdraw any license until the licensee shall have been given notice and opportunity for a hearing in accordance with this Act.*

Section 224. KRS 290.280 is amended to read as follows:

(1) If any credit union fails to make the report prescribed by KRS 290.090 within fifteen (15) days after it is due, or fails to pay the charges required by this chapter, including the charges for delay in filing reports, the commissioner shall give notice to the credit union of his intention to revoke the certificate of approval of the corporation. If such failure continues for fifteen (15) days after the notice, the commissioner may, in his discretion, revoke the certificate of approval *in accordance with this Act,* and take possession of the property and business of the credit union until such time as the commissioner permits it to resume business, or until its affairs are liquidated.

(2) When it appears to the commissioner that any credit union has violated any of the provisions of this chapter, or any rule or regulation adopted pursuant thereto, he may, after *notice and* an opportunity for hearing has been given such credit union *in accordance with this Act,* make an order, over his signature and official seal, directing the credit union to discontinue the illegal practices specified in the order. If any credit union is insolvent, has violated any of the provisions of this chapter or has failed to comply, within a reasonable time, with any order mailed to the last address recorded with the commissioner by the credit union, then the commissioner, or one of his deputies, shall take possession of the business and property of the credit union as soon as practicable, and shall retain such possession until the commissioner permits it to resume business, or until its affairs are liquidated.

Section 225. KRS 291.090 is amended to read as follows:

(1) The commissioner may, at any time, assign examiners appointed under KRS 287.440 to make an examination of the affairs of any investment company at the expense of the company examined.

(2) If the examiners find that an investment company does not have assets equal in value to the reserve fund contributed by every contract in force, plus the interest at three and one-half per cent (3 1/2%) per annum, compounded annually, the company shall be declared insolvent and its license revoked *after notice and hearing in accordance with this Act.*

Section 226. KRS 291.450 is amended to read as follows:

(1) The commissioner shall upon approval issue a certificate of approval in triplicate, one (1) copy of which shall be delivered to the applicant and one (1) copy to the secretary of state which shall constitute the authority of the secretary of state to file and record the articles as provided in the general corporation law.

(2) Upon the receipt of payment of fees and filing of the articles of incorporation by the secretary of state, the commissioner shall issue a certificate or certificates authorizing the corporation to operate an industrial loan business in this state at the places specified, such certificates to be in such form as the commissioner prescribes.

(3) The commissioner shall mail one (1) copy of the certificate to each office of the corporation and shall retain one (1) copy, which shall be filed in the office of the commissioner.

(4) If the commissioner does not approve the application, he shall notify the applicant of the denial and return the sum paid by the applicant as a fee for the privilege of doing business, retaining the fifty-dollar investigation fee , and notify the applicant of his opportunity for a hearing on the denial in accordance with this Act .

(5) The commissioner shall approve or deny every such application within sixty (60) days after the filing thereof with the fees paid, unless the time is extended by the commissioner for good cause.

(6) All findings of the commissioner, together with a summary of the evidence supporting them, shall be filed in the office of the commissioner as public records.

(7) The certificate or certificates issued to the corporation shall expire on the succeeding January 15, and shall be renewed only on compliance with the provisions of KRS 291.410 to 291.600.

(8) Whenever the commissioner denies any application for certificate under the provisions of KRS 291.410 to 291.600, he shall forthwith file in his office a written order *and* to that effect, stating his findings with respect thereto and the reasons for his action. The commissioner shall also forthwith serve upon the applicant for a certificate a copy of the order *in accordance with this Act.* The applicant may appeal to the Circuit Court *for review of the order in accordance with this Act* of Franklin County within thirty (30) days after service of a copy of the order.

(9) The corporation shall not conduct any industrial loan business until it receives a certificate from the commissioner stating that it has fully complied with all the provisions of KRS 291.410 to 291.600, and that the requisite capital is in good faith subscribed and paid in cash.

Section 227. KRS 291.560 is amended to read as follows:

(1) The commissioner or his authorized agent shall conduct the hearing required by KRS 291.550 *in accordance with this Act.*

(2) The commissioner may issue subpoenas to compel the attendance of witnesses and the production of documents, and may administer oaths, take testimony, hear proof and receive exhibits in evidence. In case of disobedience to a subpoena, the commissioner may invoke the aid of the Franklin Circuit Court.

(3) At any hearing the accused may appear in person or by counsel, produce evidence and witnesses on his own behalf, cross-examine witnesses and examine such evidence and documents as may be produced against him. The accused is entitled, on application to the commissioner, to the issuance of subpoenas to compel the attendance of witnesses on his behalf. The commissioner may also be represented by counsel.

(4) A stenographic record of the proceedings shall be kept *in accordance with this Act* , but it is not necessary to transcribe shorthand notes unless an appeal is taken from the order.

(5) The *final* order of the commissioner shall be in writing and shall be *issued in accordance with this Act* accompanied by findings of fact and conclusions of law.

(6) A copy of an order suspending or revoking a certificate shall be served upon the certificate holder by certified mail, return receipt requested or by registered mail immediately upon entry by the commissioner.

Section 228. KRS 291.570 is amended to read as follows:

(1) Any person whose certificate is revoked or suspended may appeal from the order of revocation or suspension by filing in the Franklin Circuit Court a notice of appeal and a copy of the order of the commissioner within thirty (30) days of the date of entry of the order. He shall execute bond for costs. The petition for *review in accordance with this Act* appeal shall set forth with particularity the grounds upon which the appeal is taken. The certificate holder shall cause a copy of the notice of appeal to be served upon the commissioner.

(2) Within thirty (30) days after service of notice of appeal, or within such further time as the court may allow, the commissioner shall file in the Franklin Circuit Court the original or a certified copy of the entire record of the proceeding under review; but, by stipulation of the parties, the record may be shortened.

(2) (3) The filing of the notice of appeal does not stay enforcement of the order; but upon motion of the appellant the Franklin Circuit Court, in its discretion, may order a stay pending decision of the appeal. In the event there is an appeal from the Franklin Circuit Court to the Court of Appeals, the circuit court may order a stay pending decision of the appeal. A bond may be required by the court if in its judgment the public interest may so demand. If the time for renewal of the certificate occurs during a stay of enforcement, the commissioner shall grant a renewal upon application properly made and payment of the usual fees.

(4) The Franklin Circuit Court shall set the case for hearing without a jury and dispose of the appeal in a summary manner, being confined to the record made before the commissioner except that new evidence may be introduced as to fraud. The court may hear oral arguments and receive written briefs. The court may affirm or set aside the order of the commissioner, or may remand the case to the commissioner for further evidence.

(3) (5) Any aggrieved party may secure a review of an adverse judgment of the Franklin Circuit Court under KRS 291.410 to 291.600 by appeal to the Court of Appeals. Such appeal shall be taken in the manner provided in the Rules of Civil Procedure.

Section 229. KRS 292.390 is amended to read as follows:

(1) The director may issue a stop order denying effectiveness to, or suspending or revoking the effectiveness of, any registration statement if he finds that the order is in the public interest and that:

(a) The registration statement as of its effective date or as of any earlier date in the case of an order denying effectiveness, or any amendment under KRS 292.380 (5) as of its effective date, or any report under KRS 292.380 (7), is incomplete in any material respect or contains any statement which was, in the light of the circumstances under which it was made, false or misleading with respect to any material fact;

(b) Any provision of this chapter or any rule, order, or condition lawfully imposed under this chapter has been willfully violated, in connection with the offering by (1) the person filing the registration statement, (2) the issuer, any partner, officer, or director of the issuer, any person occupying a similar status or performing similar functions, or any person directly or indirectly controlling or controlled by the issuer, but only if the person filing the registration statement is directly or indirectly controlled by or acting for the issuer, or (3) any underwriter;

(c) The security registered or sought to be registered is the subject of an administrative stop order or a similar order or a permanent or temporary injunction of any court of competent jurisdiction entered under any other federal or state act applicable to the offering; but 1. the director may not institute a proceeding against an effective registration statement under this paragraph more than one year from the date of the order or injunction relied on, and 2. he may not enter an order under this paragraph on the basis of an injunction entered under any other state act unless that order or injunction was based on facts which would currently constitute a ground for a stop order under this section;

(d) The issuer's enterprise or method of business includes or would include activities which are illegal where performed;

(e) The offering has worked or tended to work a fraud upon purchasers or would so operate;

(f) The offering has been, or would be, made with unreasonable amounts of underwriters' and sellers' discounts, commissions, or other compensations, or promoters' profits or participation, or unreasonable amounts or kinds of options;

(g) When a security is sought to be registered by notification it is not eligible for such registration;

(h) When a security is sought to be registered by coordination, there has been a failure to comply with the undertaking required by KRS 292.360 (2) (g);

(i) The applicant or registrant has failed to pay the proper registration fee; but the director may enter only a denial order under this paragraph and he shall vacate any such order when the deficiency has been corrected;

(j) A commission or fee greater than fifteen percent would be paid directly or indirectly, in consideration for the sale of securities sought to be registered and this fee shall exclude reasonable legal and accounting expenses.

(2) The director may not enter a stop order against an effective registration statement on the basis of a fact or transaction known to him when the registration statement became effective unless the proceeding is instituted within the next thirty days.

(3) The director may by order summarily postpone or suspend the effectiveness of the registration statement *in accordance with this Act* pending final determination of any proceeding under this section. Upon the entry of a stop order under any part of this section, the director shall promptly notify the issuer of the securities, the applicant or registrant and the person on whose behalf the securities are to be or have been offered, that the order has been entered and of the reasons therefor and that within *twenty (20)* fifteen days after the receipt of a written request the matter will be set down for hearing *in accordance with this Act.* If no hearing is requested within fifteen days and none is ordered by the director, the director shall *conduct such hearing and* enter his written *final order* findings of fact and conclusions of law and the *stop* order will remain in effect until it is modified or vacated by the director. If a hearing is requested or ordered, the director, after notice of and opportunity for hearing *provided as described in this subsection* to the issuer and to the applicant or registrant, shall enter his written *final order* finding of fact and conclusions of law and may modify or vacate the *stop* order. The director may modify or vacate a stop order if he finds that the conditions which prompted its entry have changed or that it is otherwise in the public interest to do so.

Section 230. KRS 292.410 is amended to read as follows:

(1) Except as hereinafter in this section expressly provided, KRS 292.330 to 292.390 shall not apply to any of the following transactions:

(a) Any isolated non-issuer transaction, whether effected through a broker-dealer or not;

(b) Any non-issuer distribution of an outstanding security by a registered broker-dealer, if the security has a fixed maturity or a fixed interest or dividend provision and there has been no default during the current fiscal year or within the three preceding fiscal years, or during the existence of the issuer and any predecessors if less than three years, in the payment of principal, interest, or dividends on the security;

(c) Any non-issuer transaction effected by or through a registered broker-dealer pursuant to an unsolicited order or offer to buy; but the director may by rule require that the customer acknowledge upon a specified form that the sale was unsolicited, and that a signed copy of each such form be preserved by the broker-dealer for a specified period;

(d) Any transaction between the issuer or other person on whose behalf the offering is made and an underwriter, or among underwriters;

(e) Any transaction in a bond or other evidence of indebtedness secured by a real or chattel mortgage or deed of trust, or by an agreement for the sale of real estate or chattels, if the entire mortgage, deed or trust, or agreement, together with all the bonds or other evidences of indebtedness secured thereby, is offered and sold as a unit;

(f) Any transaction by an executor, administrator, sheriff, marshall, receiver, trustee in bankruptcy, guardian, or conservator;

(g) Any transaction executed by a bona fide pledgee without any purpose of evading this chapter;

(h) Any offer or sale to a bank, savings institution, trust company, insurance company, investment company as defined in the Investment Company Act of 1940, pension or profit-sharing trust, or other financial institution or institutional buyer, or to a broker-dealer, whether the purchaser is acting for itself or in some fiduciary capacity;

(i) Any transaction pursuant to an offer directed by the offeror to not more than ten persons (other than those designated in paragraph (h)) in this state during any period of twelve consecutive months, whether or not the offeror or any of the offerees is then present in this state, if

1. the seller reasonably believes that all the buyers are purchasing for investment, and

2. no commission or other remuneration is paid or given directly or indirectly for soliciting any prospective buyer in this state (other than those designated in paragraph (h)); but the director may by rule or order, as to any security or transaction, withdraw or further condition this exemption, or increase or decrease the number of offerees permitted, or waive the conditions in subparagraphs 1. and 2. of this paragraph with or without the substitution of a limitation on remuneration;

(j) Any offer or sale of a preorganization certificate or subscription, if

1. no commission or other remuneration is paid or given directly or indirectly for soliciting any prospective subscriber,

2. the number of subscribers does not exceed ten, and

3. no payment is made by any subscriber;

(k) Any transaction pursuant to an offer to existing security holders of the issuer, including persons who at the time of the transaction are holders of convertible securities, non-transferable warrants, or transferable warrants exercisable within not more than ninety days of their issuance, if

1. no commission or other remuneration (other than a standby commission) is paid or given directly or indirectly for soliciting any security holder in this state, or

2. the issuer first files a notice specifying the terms of the offer and the director does not by order disallow the exemption within the next five full business days;

(l) Any offer (but not a sale) of a security for which registration statements have been filed under both this chapter and the Securities Act of 1933 if no stop order or refusal order is in effect and no public proceeding or examination looking toward such an order is pending under either act;

(m) The issuance of any stock dividend, whether the corporation distributing the dividend is the issuer of the stock or not, if nothing of value is given by stockholders for the distribution other than the surrender of a right to a cash dividend where the stockholder can elect to take a dividend in cash or stock;

(n) Any transaction incident to a right of conversion or a statutory or judicially approved reclassification, recapitalization, reorganization, quasi reorganization, stock split, reverse stock split, merger, consolidation or sale of assets;

(o) Any transaction by a person who does not control, and is not controlled by or under common control with, the issuer if

1. the transaction is at a price reasonably related to the current market price,

2. the security is registered under Section 12 of the Securities Exchange Act of 1934 and the issuer files reports pursuant to Section 13 of that act, and

3. copies of such federal registration statements, reports, forms or exhibits as the director may by rule or order require are filed with the director;

(p) Any transaction by a person who may control, or may be controlled by or under common control with, the issuer if

1. the transaction is at a price reasonably related to the current market price,

2. the security is registered under Section 12 of the Securities Exchange Act of 1934 and the issuer files reports pursuant to Section 13 of that act, and

3. copies of such federal registration statements, forms, reports or exhibits as the director may by rule or order require are filed with the director, and

4. such sales by any such person comply with such rules as the director may prescribe.

(2) The director may by order deny or revoke the exemption specified in KRS 292.400 (9) or (11) or in this section with respect to a specific security or transaction. No such order may be entered without appropriate prior notice *and* to all interested parties, opportunity for hearing *in accordance with this Act,* and written *final order issued pursuant thereto* findings of fact and conclusions of law, except that the director may by order summarily *suspend* deny or revoke any of the specified exemptions *in accordance with this Act* pending final determination of any proceeding under this subsection. Upon entry of a summary order, the director shall promptly notify all interested parties *in accordance with this Act* that it has been entered and of the reasons therefor and that within *twenty (20)* fifteen days of the receipt of a written request the matter will be set down for hearing. If no hearing is requested, and none is ordered by the director *shall conduct such hearing and enter his final order, and* the order will remain in effect until it is modified or vacated by the director. If a hearing is requested or ordered, the director, after notice of and opportunity for hearing to all interested persons *in accordance with this Act,* may modify or vacate the order to extend it until final determination. No order under this subsection may operate retroactively. No person may be considered to have violated this chapter by reason of any offer or sale effected after the entry of an order under this subsection if he sustains the burden of proof that he did not know, and in the exercise of reasonable

care could not have known of the order. In any proceeding under this chapter, the burden of proving an exemption from a definition is upon the person claiming it.

Section 231. KRS 292.500 is amended to read as follows:

(1) The administration of the provisions of this chapter shall be under the Division of Securities in the Department of Banking.

(2) It is unlawful for the director or any of his officers or employes to use for personal benefit any information which is filed with or obtained by the director and which is not made public. No provision of this chapter authorizes the director or any of his officers or employes to disclose any such information except among themselves or when necessary or appropriate in a proceeding or investigation under this chapter. No provision of this chapter either creates or derogates from any privilege which exists at common law or otherwise when documentary or other evidence is sought under a subpoena directed to the director or any of his officers or employes.

(3) The director may from time to time make, amend, and rescind such rules, forms and orders as are necessary to carry out the provisions of this chapter, including rules and forms governing registration statements, applications, and reports and defining any terms, whether or not used in this chapter, insofar as the definitions are not inconsistent with the provisions of this chapter. For the purpose of rules and forms, the director may classify securities, persons, and matters within his jurisdiction, and prescribe different requirements for different classes.

(4) No rule, form, or order may be made, amended, or rescinded unless the director finds that the action is necessary or appropriate in the public interest or for the protection of investors and consistent with the purposes fairly intended by the policy and provision of this chapter. In prescribing rules and forms the director may cooperate with the securities administrators of the other states and the Securities and Exchange Commission with a view to effectuating the policy of this statute to achieve maximum uniformity in the form and content of registration statement, applications, and reports whenever practicable.

(5) The director may by rule or order prescribe the form and content of financial statements required under this chapter and the circumstances under which consolidation financial statements shall be certified by independent, public or certified public accountants. All financial statements shall be prepared in accordance with generally accepted accounting standards.

(6) All rules and forms of the director shall be published.

(7) No provision of this chapter imposing any liability applies to any act done or omitted in good faith in conformity with any rule, form, or order of the director, notwithstanding that the rule, form or order may later be amended or rescinded or be determined by judicial or other authority to be invalid for any reason.

(8) A document is filed when it is received by the director.

(9) Every hearing in an administrative proceeding shall be *conducted in accordance with this Act and be* public unless the director in his discretion grants a request joined in by all the respondents that the hearing be conducted privately.

(10) The director shall keep a register of all applications for registration and registration statements which are or have ever been effective under this chapter and all denial, suspension, or revocation orders which have ever been entered under this chapter. The register shall be open for public inspection.

(11) The information contained in or filed with any registration statement, application, or report may be made available to the public under such rules as the director prescribes.

(12) Upon request and at such reasonable charges as he prescribes, the director shall furnish to any person photostatic or other copies (certified under his seal of office if requested) of any entry in the register or any document which is a matter of public record. In any proceeding or prosecution under this chapter, any copy so certified is prima facie evidence of the contents of the entry or document certified.

(13) The director in his discretion may honor requests from interested persons for interpretative opinions *or declaratory orders in accordance with this Act.*

Section 232. KRS 293.050 is amended to read as follows:

Each Commissioner holding office by appointment of the Governor may be removed from office by the Governor, for cause, after a public hearing *in accordance with this Act*, and may be suspended by the Governor pending the completion of the hearing. Each Commissioner before entering upon his duties shall take and subscribe an oath to perform the duties of his office faithfully, impartially and justly to the best of his ability. A record of the oath shall be entered in the Minute Book.

Section 233. KRS 304.2-310 is amended to read as follows:

(1) The commissioner may hold a hearing *in accordance with this Act*, without request by others, for any purpose within the scope of this code.

(2) The commissioner shall hold a hearing *in accordance with this Act*:

(a) If required by any other provision of this code; or

(b) Upon written application for a hearing by a person aggrieved by any act, threatened act, or failure of the commissioner to act, or by any report, rule, regulation or order of the commissioner (other than an order for the holding of a hearing, or an order entered after a hearing, of which hearing such person had notice). Any such application must be filed in the department within sixty (60) days after such person knew or reasonably should have known, of such act, threatened act, failure, report, rule, regulation or order, unless a different period is provided for by other laws applicable to the particular matter, in which case such other law shall govern.

(3) Any such application for a hearing shall briefly state the respects in which the applicant is so aggrieved, together with the grounds to be relied upon as a basis for the relief to be sought at the hearing.

(4) If the commissioner finds that the application is made in good faith, that the applicant would be so aggrieved if his grounds are established, he shall hold the hearing within *twenty (20)* thirty (30) days after *receipt* filing of the application, unless postponed by mutual consent.

(5) Pending the hearing and decision thereon, the commissioner shall suspend or postpone the effective date of his previous action.

Section 234. KRS 304.2-320 is amended to read as follows:

(1) *The* Except where a longer period is expressly provided in this code, the commissioner shall give written notice of the hearing *in accordance with this Act.* not less than ten (10) days in advance. The notice shall state the date, time and place of the hearing and specify the matters to be considered thereat. If the persons to be given notice are not specified in the provision pursuant to which the hearing is held, the commissioner shall give such notice to all persons whose pecuniary interest, to the commissioner's knowledge or belief, are to be directly and immediately affected by the hearing.

(2) If any such hearing is to be held for consideration of rules and regulations of the commissioner, or of other matters which, under subsection (1) of this section, would otherwise require separate notice to more than thirty (30) persons, in lieu of other notice the commissioner may give notice of the hearing by publication pursuant to KRS chapter 424; but the commissioner shall mail such notice to all persons who had requested the same in writing in advance and have paid to the commissioner the reasonable amount fixed by him to cover the cost thereof.

(3) All such notices, other than published notices, shall be given as provided in KRS 304.2-120.

Section 235. KRS 304.2-330 is amended to read as follows:

(1) The commissioner, or any person duly authorized in writing by the commissioner, shall preside at the hearing, and shall expedite the hearing and all procedures involved therein, and shall have the same powers as the commissioner in relation to the entire matter except the order on the hearing, if not prepared by the commissioner, shall be approved by writing by the commissioner.

(2) Any party to the hearing shall have the right to appear in person and by counsel, to be present during the giving of all evidence, to have a reasonable opportunity to inspect all documentary and other evidence and to examine and cross-examine witnesses, to present evidence in support of his interest and to have subpoenas issued by the commissioner to compel attendance of witnesses and production of evidence in his behalf. Testimony may be taken orally or by deposition, and any party shall have such right of introducing evidence by interrogatories or deposition as may obtain in a circuit court.

(3) Upon good cause shown the commissioner shall permit to become a party to the hearing by intervention, if timely, only such persons, not original parties thereto, whose pecuniary interests are to be directly and immediately affected by the commissioner's order made upon the hearing.

(3) (4) Formal rules of pleading or evidence need not be observed at any hearing so long as procedural due process is afforded all parties, and so long as *Said* said hearing *shall be scheduled and* is conducted in accordance with the rules and regulations of the department *and this Act.*

(5) The hearing shall be public, unless the commissioner, or his authorized designee, determines that a private hearing would be in the public interest, in which case and only with the consent of all parties to the hearing, the hearing shall be private.

(6) The commissioner shall cause a full stenographic record of the proceedings to be made. If transcribed, a copy of such record shall be part of the commissioner's record of the hearing; and a copy shall be furnished to any other party to the hearing, at the request and expense of such other party. If no such record is transcribed, the commissioner shall prepare a summary record of the proceedings and evidence.

(7) The validity of any hearing held in accordance with the notice thereof, or waiver of notice, shall not be affected by the failure of any person to attend or remain in attendance.

(8) The commissioner or his authorized designee may adjourn any hearing from time to time and from place to place without other notice of the adjourned hearing than announcement thereof at the hearing.

Section 236. KRS 304.2-340 is amended to read as follows:

(1) The commissioner or his authorized designee conducting a hearing, examination or investigation by his authority shall have power to subpoena witnesses, compel their attendance, administer oaths, examine any person under oath relative to the subject of the hearing, examination or investigation, and to compel any person to subscribe to his testimony after it has been correctly reduced to writing, and, in connection therewith, to require the production of any books, papers, records, correspondence or other documents which he deems relevant to the inquiry.

(2) A subpoena issued pursuant to this section shall have the same force and effect and shall be served in the same manner as if issued from a court of record.

(3) If any individual refuses to comply with any such subpoena or to testify as to any matter concerning which he may be lawfully interrogated, the circuit court of the county wherein such examination, investigation, or hearing is being conducted or of the county wherein such individual resides, on the commissioner's application may, after summary hearing, issue an order requiring such individual to comply with the subpoena and to testify; and failure to obey such an order may be punished by the court as a contempt thereof.

(4) Witness fees and mileage, if claimed, shall be allowed the same as for testimony in a circuit court, but no officer, director, agent or employe of an insurer or person being examined or investigated shall be entitled to witness or mileage fees.

(5) Any individual wilfully testifying falsely under oath as to any material to any such examination, investigation, or hearing shall upon conviction thereof be guilty of perjury.

(6) The rules of evidence as prescribed in this Act shall apply to any hearing conducted pursuant to this subtitle.

Section 237. KRS 304.2-360 is amended to read as follows:

(1) In the conduct of hearings under this code and making his order thereon, the commissioner shall act in a quasi-judicial capacity.

(2) *The* Except as otherwise provided in this subsection, within thirty (30) days after termination of a hearing, or of any rehearing thereof or reargument thereon, or within such other period as may be specified in this code as to particular proceedings, the commissioner shall make his order covering matters involved in such hearing, and give a copy of the order to each party to the hearing, in *accordance with this Act* the same manner as notice of the hearing was given to such party. With respect to hearings held concerning merger, consolidation, bulk re-insurance, conversion, affiliation or change of control of a domestic insurer as provided in subtitle 24, or in subtitle 27, where notice of the hearing was given to all stockholders and policyholders or to all stockholders of an insurer involved, the commissioner is required to give a copy of the order on hearing to the corporation and insurer parties, to intervening parties, to a reasonable number of such stockholders or policyholders as representative of the class, and to other parties only upon written request of such parties.

(3) The order shall contain:

(a) A concise statement of facts found by the commissioner upon evidence adduced at the hearing;

(b) A concise statement of the commissioner's conclusions of law from the facts so found;

(c) His order, and the effective date thereof; and

(d) Citation of the provisions of this code upon which the order is based.

(3) (4) The order may affirm, modify or rescind action theretofore taken or may constitute taking of new action within the scope of the notice of the hearing.

(4) (5) An order prepared by the commissioner's designee and approved in writing by the commissioner shall be considered the commissioner's order.

Section 238. KRS 304.2-370 is amended to read as follows:

(1) An appeal from the commissioner shall be taken only from an order on hearing.

(2) Any person who was a party to such a hearing and who is aggrieved by such order may appeal from such order within thirty (30) days after the order on hearing *becomes final* has been mailed or delivered to the persons entitled to receive the same, or given by last publication thereof where delivery by publication is permitted.

(3) The appeal shall be granted as a matter of right, and shall be taken to the Franklin Circuit Court *in accordance with this Act.*

(4) The appeal shall be taken by filing in the court a verified petition setting forth the grounds for appeal, together with a bond with good and sufficient sureties to be approved by the court, conditioned to pay all costs which may be assessed against the appellant or petitioner in such proceedings, and by serving a copy of the petition on the commissioner. If the appeal is from the commissioner's order on hearing, the petitioner shall also deliver to the commissioner a sufficient number of copies of the petition and the commissioner shall mail or otherwise furnish a copy thereof to the other parties to the hearing to the same extent as a copy of the commissioner's orders is required to be furnished to the hearing parties under KRS 304.2-360.

(5) Upon receiving the petition on appeal, the commissioner shall forthwith prepare an official record certified by him which shall contain a copy of all proceedings and orders of the commissioner appealed from and the transcript of testimony and evidence or summary record thereof made as provided in KRS 304.2-330. Within thirty (30) days after the petition was served upon him the commissioner shall file such official record with the court.

(6) Upon filing of the petition on appeal the court shall have full jurisdiction of the proceeding. Such filing shall not stay the enforcement of the commissioner's order or action appealed from unless so stayed by order of the court in which the appeal is pending.

(7) A case shall be set down by the court for as early a day as possible for a hearing and shall in all respects be expedited as a declaratory judgment suit. No new or additional evidence shall be introduced in the circuit court except as to fraud or misconduct of some party engaged in the administration of this chapter and affecting the order appealed from, but the court shall otherwise hear the case upon the record as attested by the department and shall in all respects dispose of the appeal in a summary manner. Its review shall be limited to determining whether or not (a) the commissioner acted without or in excess of his powers; (b) legal or procedural due process was afforded the appellant; and (c) if questions of fact are in issue, whether or not any substantial evidence supports the order appealed from.

(8) After such a hearing, the court shall enter a judgment sustaining or setting aside the order of the commissioner appealed from or, in its discretion, the court may remand the case to the commissioner for the purpose of taking additional testimony or other proceedings.

(4) (9) From the judgment of the Franklin Circuit Court the commissioner or other party to the appeal may appeal to the Kentucky Court of Appeals in the same manner as provided in civil cases.

Section 239. KRS 304.3-190 is amended to read as follows:

(1) The commissioner shall refuse to continue or shall suspend or revoke an insurer's certificate of authority:

(a) If such action is required by any provision of this code; or

(b) If a foreign or alien insurer and it no longer meets the requirements for a certificate of authority, as required for domestic insurers, on account of deficiency of capital or surplus or otherwise; or

(c) If a domestic insurer and it has failed to cure an impairment of capital, if a stock insurer, or minimum required surplus, if other than a stock insurer, within the time allowed therefor by the commissioner under this code or is otherwise no longer qualified for the certificate of authority; or

(d) If the insurer's certificate of authority to transact insurance therein is suspended or revoked by its state or country of domicile.

(2) Except in case of insolvency or impairment of required capital or surplus, or suspension or revocation by another state or country as referred to in paragraph (d) of subsection (1) of this section, the commissioner shall give the insurer at least twenty (20) days notice in advance of *and hearing on* any such refusal, suspension, or revocation under this section, *in accordance with subtitle 2* and of the particulars of the reasons therefor. If the insurer requests a hearing thereon within such twenty (20) days, such request shall automatically stay the commissioner's proposed action until his order is made on such hearing.

Section 240. KRS 304.3-200 is amended to read as follows:

(1) The commissioner may, in his discretion, refuse to continue or may suspend or revoke an insurer's certificate of authority if he finds after a hearing thereon, or upon waiver of hearing by the insurer, that the insurer has:

(a) Wilfully violated or wilfully failed to comply with any lawful order of the commissioner; or

(b) Wilfully violated or wilfully failed to comply with any lawful regulation of the commissioner; or

(c) Wilfully violated any provision of this code other than those for violation of which suspension or revocation is mandatory; or

(d) Failed to pay taxes on its premiums as required by law.

In lieu of such suspension or revocation, the commissioner may, in his discretion, levy upon the insurer, and the insurer shall pay forthwith, an administrative fine of not more than two thousand dollars ($2,000).

(2) The commissioner shall suspend or revoke an insurer's certificate of authority on any of the following grounds, if he finds after a hearing thereon that the insurer:

(a) Is in unsound condition, or is being fraudulently conducted, or is in such condition or using such methods and practices in the conduct of its business as to render its further transaction of insurance in this state currently or prospectively hazardous or injurious to policyholders or to the public.

(b) With such frequency as to indicate its general business practice in this state:

1. Has without just cause failed to pay, or delayed payment of, claims arising under its policies, whether the claim is in favor of an insured or is in favor of a third person with respect to the liability of an insured to such third person; or

2. Without just cause compels insureds or claimants to accept less than the amount due them or to employ attorneys or to bring suit against the insurer or such an insured to secure full payment or settlement of such claims.

(c) Refuses to be examined, or if its directors, officers, employes or representatives refuse to submit to examination relative to its affairs, or to produce its accounts, records and files for examination by the commissioner when required, or refuse to perform any legal obligation relative to the examination.

(d) Has failed to pay any final judgment rendered against it in this state upon any policy, bond, recognizance or undertaking as issued or guaranteed by it, within thirty (30) days after the judgment became final or within thirty (30) days after dismissal of an appeal before final determination, whichever date is the later.

(3) The commissioner may, in his discretion and without advance notice or a hearing thereon, immediately suspend *in accordance with subtitle 2* the certificate of authority of any insurer as to which proceedings for receivership, conservatorship, rehabilitation or other delinquency proceedings have been commenced in any state by the public insurance supervisory officer of such state.

Section 241. KRS 304.9-200 is amended to read as follows:

(1) After completion of application for a license, and the taking and passing of any examination required under this subtitle, the commissioner shall promptly consider the same. If the commissioner finds that the applicant has fully met the requirements therefor, the commissioner shall promptly issue the license to the applicant; otherwise, the commissioner shall refuse to issue the license and promptly notify the applicant and the appointing insurer or agent of such refusal, stating the grounds thereof, *and provide opportunity for hearing, in accordance with this Act.*

(2) If a license is refused, the commissioner shall promptly refund the appointment fee tendered with the license application. All other fees for application for agent, consultant, solicitor, or adjuster licenses shall be deemed earned when paid and shall not be refundable.

Section 242. KRS 304.9-440 is amended to read as follows:

(1) The commissioner may suspend or may impose conditions upon the continuance of a license for not more than twelve (12) months, or may revoke or refuse to continue any license issued under this subtitle or any surplus lines broker license if, after notice to the licensee and to the insurer represented (as to an agent) or to the employer (as to a solicitor) and a hearing *in accordance with subtitle 2 of this Code*, the commissioner finds that as to the licensee any one (1) or more of the following causes exist:

(a) Any cause for which issuance of the license could have been refused had it then existed and been known to the commissioner.

(b) Wilful violation of or noncompliance with any applicable provision of this code, or wilful violation of any lawful rule, regulation, or order of the commissioner.

(c) Obtaining or attempting to obtain any such license through misrepresentation or fraud.

(d) Misappropriation or conversion to his own use, or illegal withholding, of moneys belonging to policyholders, insurers, beneficiaries, or others and received in the conduct of business under the license.

(e) Wilful material misrepresentation of the terms of any actual or proposed insurance contract.

(f) Conviction, by final judgment, of a felony involving moral turpitude.

(g) In the conduct of his affairs under the license the licensee has used fraudulent, coercive, or dishonest practices, or has shown himself to be incompetent, untrustworthy, financially irresponsible, or a source of injury and loss to the public.

(2) The license of a firm or corporation may be suspended, revoked, or refused *in the same manner as provided in subsection (1) and* for any of such causes as relate to an individual designated in or registered as to the license to exercise its powers.

Section 243. KRS 304.9-450 is amended to read as follows:

(1) Upon suspension or revocation of any such license the commissioner shall forthwith notify the licensee thereof *in accordance with this Act* either in person or by mail addressed to the licensee at his address last of record with the commissioner. Notice by mail shall be deemed effectuated when so mailed. The commissioner shall give like notice to the insurer represented by the agent, in the case of an agent's license, and to the employer in the case of a solicitor's license.

(2) Suspension or revocation of the license of an agent shall automatically suspend the licenses of all solicitors employed by him.

(3) The commissioner shall not again issue a license under this code to or as to any person whose license has been revoked, until after expiration of one (1) year and thereafter not until such person again qualifies therefor in accordance with the applicable provisions of this code. A person whose license has been revoked twice shall not again be eligible for any license under this code.

(4) If the license of a firm or corporation is so suspended or revoked, no member of such firm, or officer or director of such corporation, shall be licensed or be designated in or as to any license to exercise the powers thereof during the period of such suspension or revocation, unless the commissioner determines upon substantial evidence that such member, officer, or director was not personally at fault and did not acquiesce in the matter on account of which the license was suspended or revoked.

Section 244. KRS 304.12-120 is amended to read as follows:

(1) If, after a hearing thereon *in accordance with subtitle 2 of this code* of which notice of such hearing and of the charges against him were given such person, the commissioner finds that any person in this state has engaged or is engaging in any act or practice defined in or prohibited under this subtitle, the commissioner shall order such person to desist from such act or practice.

(2) Such desist order shall become final upon expiration of the time allowed for appeals from the commissioner's orders, if no such appeal is taken, or, in event of such an appeal, upon final decision of the court if the court affirms the commissioner's order or dismisses the appeal. An intervenor in such hearing shall have the right to appeal as provided in subsection (3) of KRS 304.12-130.

(3) In event of such an appeal, to the extent that the commissioner's order is affirmed, the court shall issue its own order commanding obedience to the terms of the commissioner's order.

(4) No order of the commissioner pursuant to this section or order of court to enforce it shall in any way relieve or absolve any person affected by such order from any other liability, penalty, or forfeiture under law.

Section 245. KRS 304.12-130 is amended to read as follows:

(1) If the commissioner believes that any person engaged in the insurance business is engaging in this state in any method of competition or in any act or practice in the conduct of such business which is not defined in this subtitle but that such method of competition is unfair, deceptive, or not in the public interest, or that such act or practice is unfair or deceptive and that a proceeding by him in respect thereto would be in the public interest, he shall, after *notice and* a hearing *in accordance with subtitle 2* of which notice of the hearing and of the charges against him are given such person , make a *final order* written report of his findings of fact relative to such charges and serve a copy thereof upon such person and any intervenor at the hearing.

(2) If such *final order* report charges a violation of this subtitle and if such method of competition, act or practice has not been discontinued, the commissioner may, or through the attorney general, at any time after the service of such *final order* report , cause an action to be instituted to enjoin and restrain such person from engaging in such method, act, or practice. In such action the court may grant a restraining order or injunction upon such terms as may be just; but the people of this commonwealth shall not be required to give security before the issuance of any such order or injunction. If a stenographic record of the proceedings in the hearing before the commissioner was made, a certified transcript thereof including all evidence taken and the report and findings shall be received in evidence in such action.

(3) If the commissioner's *final order* report made pursuant to subsection (1) of this section or order on hearing made pursuant to KRS 304.12-120 does not charge a violation of this subtitle, then any intervenor in the proceedings may appeal therefrom within the time and in the manner provided in this code for appeals from the commissioner generally.

Section 246. KRS 304.13-140 is amended to read as follows:

(1) Subject to rules and regulations which have been approved by the commissioner as reasonable, each rating organization shall permit any insurer to be a subscriber to its rating services for any kind of insurance, subdivision, or class of risk or a part or combination thereof for which it is authorized to act as a rating organization. Notice of proposed changes in such rules and regulations shall be given to subscribers. Each rating organization shall furnish its rating services without discrimination to its subscribers.

(2) The reasonableness of any rule or regulation in its application to subscribers, or the refusal of any rating organization to admit an insurer as a subscriber, shall, at the request of any subscriber or any such insurer, be reviewed by the commissioner at a hearing held *in accordance with subtitle 2* upon at least ten (10) days' written notice to such rating organization and to such subscriber or insurer. If the commissioner finds that such rule or regulation is unreasonable in its application to subscribers, he shall order that such rule or regulation shall not be applicable to subscribers. If the rating organization fails to grant or reject an insurer's application for subscribership within thirty (30) days after it was made, the insurer may request a review by the commissioner as if the application had been rejected. If the commissioner finds *after hearing in accordance with subtitle 2* that the insurer has been refused admittance to the rating organization as a subscriber without justification, he shall order the rating organization to admit the insurer as a subscriber. If he finds that the action of the rating organization was justified, he shall make an order affirming its action.

Section 247. KRS 304.13-210 is amended to read as follows:

(1) Any member of or subscriber to a rating organization may appeal to the commissioner from the action or decision of such rating organization in approving or rejecting any proposed change in or addition to the filings of such rating organization.

(2) The commissioner shall, after a hearing held *in accordance with subtitle 2 of this code* upon not less than ten (10) days' written notice to the appellant and to the rating organization, issue an order approving the action or decision of the rating organization or directing it to give further consideration to such proposal; or if the appeal is from the action or decision of the rating organization in rejecting a proposed addition to its filings, he may, in the event he finds that such action or decision was unreasonable, issue an order directing the rating organization to make an addition to its filings within a reasonable time after the issuance of such order.

Section 248. KRS 304.13-220 is amended to read as follows:

(1) Any person or organization in interest, aggrieved with respect to any filing which is in effect may make written application to the commissioner for a hearing thereon *as provided by subtitle 2 of this code*, except that the insurer or rating organization that made the filing shall not be authorized to proceed under this section. Such application shall specify the grounds to be relied upon by the applicant.

(2) If the commissioner finds that the application is made in good faith, that the applicant would be so aggrieved if his grounds are established, and that such grounds otherwise justify holding such a hearing, he shall, within *twenty (20)* thirty (30) days after receipt of such application, hold a hearing upon not less than *twenty (20)* ten (10) days' written notice to the applicant and to every insurer and rating organization which made such filing.

(3) If, after such hearing, the commissioner finds that the filing does not meet the requirements of this subtitle, he shall issue an order specifying in what respects he finds that such filing fails to meet the requirements of this subtitle, and stating when, within a reasonable period thereafter, such filing shall be deemed no longer effective. Copies of the order shall be sent to the applicant and to every such insurer and rating organization. The order shall not affect any contract or policy made or issued prior to the expiration of the period set forth in the order.

Section 249. KRS 304.13-230 is amended to read as follows:

(1) Every rating organization and every insurer which makes its own rates shall, with a reasonable time after receiving written request therefor and upon payment of such reasonable charge as it may make, furnish to any insured affected by a rate made by it, or to the authorized representative of such insured, all pertinent information as to such rate.

(2) Every rating organization and every insurer which makes its own rates shall provide within this state reasonable means whereby any person aggrieved by the application of its rating system may be heard, in person or by his authorized representative, on his written request to review the manner in which such rating system has been applied in connection with the insurance afforded him. If the rating organization or insurer fails to grant or reject such request within thirty (30) days after it is made, the applicant may proceed in the same manner as if his application has been rejected. Any *party* part affected by the action of such rating organization or such insurer on such request may, within thirty (30) days after written notice of such action, appeal to the commissioner, who, after a hearing held *in accordance with subtitle 2* upon not less than ten (10) days' written notice to the appellant and to such rating organization or insurer, may affirm or reverse such action.

Section 250. KRS 304.24-280 is amended to read as follows:

(1) No insurer shall hereafter make any contract whereby any person is granted or is to enjoy in fact the management of the insurer to the substantial exclusion of its board of directors, or to have the controlling or pre-emptive right to produce substantially all insurance business for the insurer, or, if an officer, director or otherwise part of the insurer's management, is to receive any commission, bonus or compensation based upon the volume of the insurer's business or transactions, unless the contract is filed with and approved by the commissioner. The contract shall be deemed approved unless disapproved by the commissioner within twenty (20) days after date of filing, subject to such reasonable extension of time as the commissioner may require by notice given within such twenty (20) days. Any disapproval shall be delivered to the insurer in writing, stating the grounds therefor.

(2) Any such contract shall provide that any such manager or producer of its business shall within ninety (90) days after expiration of each calendar year furnish the insurer's board of directors a written statement of amounts received under or on account of the contract and amounts expended thereunder during such calendar year, including the emoluments received therefrom by the respective directors, officers, and other principal management personnel of the manager or producer, and with such classification of items and further detail as the insurer's board of directors may reasonably require.

(3) The commissioner shall disapprove any such contract if he finds that it:

(a) Subjects the insurer to excessive charges; or

(b) Is to extend for any unreasonable length of time; or

(c) Does not contain fair and adequate standards of performance, or

(d) Contains other inequitable provision or provisions which impair the proper interests of stockholders or policyholders of the insurer.

(4) The commissioner may, after a hearing held thereon *in accordance with subtitle 2,* withdraw his approval of any such contract theretofore approved by him, if he finds that the bases of his original approval no longer exist, or that the contract has in actual operation, shown itself to be subject to disapproval on any of the grounds referred to in subsection (3) of this section.

(5) This section does not apply as to contracts entered into prior to June 18, 1970, nor to extensions or amendments to such contracts, nor to relationships and agreements between parents, subsidiaries, or affiliates.

Section 251. KRS 304.29-320 is amended to read as follows:

(1) When the commissioner upon investigation finds that a foreign or alien society transacting or applying to transact business in this state:

(a) Has exceeded its powers;

(b) Has failed to comply with any of the provisions of this subtitle;

(c) Is not fulfilling its contracts in good faith; or

(d) Is conducting its business fraudulently or in a manner hazardous to its members or creditors or the public; he shall notify the society of such deficiency or deficiencies and state in writing the reasons for his dissatisfaction. He shall at once issue a written notice to the society requiring that the deficiency or deficiencies which exist are corrected. After such notice the society shall have a thirty-day period in which to comply with the commissioner's request for correction, and if the society fails to comply the commissioner shall notify the society of his findings of noncompliance and require the society to show cause *at a hearing* on a date named why its license should not be suspended, revoked or refused. *Such notification and hearing shall be in accordance with this Act.* If on such date the society does not present good and sufficient reason why its authority to do business in this state should not be suspended, revoked or refused, he may suspend or refuse the license of the society to do business in this state until satisfactory evidence is furnished to him that such suspension or refusal should be withdrawn or he may revoke the authority of the society to do business in this state.

(2) Nothing contained in this section shall be taken or construed as preventing any such society from continuing in good faith all contracts made in this state during the time such society was legally authorized to transact business herein.

Section 252. KRS 304.29-370 is amended to read as follows:

(1) The commissioner may refuse to issue or renew any insurance agent's license if in his judgment the proposed licensee is not trustworthy and competent to act as such agent, or has given cause for revocation or suspension of such license, or has failed to comply with any prerequisite for the issuance or renewal, as the case may be, of such license.

(2) Every license issued pursuant to KRS 304.29-330 to 304.29-390, inclusive, and every renewal thereof, shall expire on December 31 of the year following the calendar year in which such license or renewal license was issued.

(3) If the application for a renewal license has been filed with the commissioner on or before December 31 of the year in which the existing license is to expire, such applicant named in such existing license may continue to act as insurance agent under such existing license, unless such license is revoked or suspended, until the issuance by the commissioner of the renewal license or until the expiration of five (5) days after he has refused to renew such license and has served written notice of such refusal on the applicant. If the applicant, within thirty (30) days after which such notice is given, notifies the commissioner in writing of his request for a hearing on such refusal, the commissioner shall, within *twenty (20) days* a reasonable time after receipt of such notice, grant such hearing, and he may, in his discretion, re-instate such license. *Such notice and hearing shall be scheduled and conducted in accordance with subtitle 2 of this code.*

(4) Any such renewal license of an insurance agent may be issued upon the application of the society named in the existing license. Such application shall be in the form or forms prescribed by the commissioner and shall contain such information as he may require. Such application shall contain a certificate executed by the president, or by a vice president, a secretary, an assistant secretary, or corresponding officer by whatever name known, or by an employe expressly designated and authorized to execute such certificate of a domestic or foreign society or by the United States manager of an alien society, stating that the addresses therein given of the agents of such society for whom renewal licenses are requested therein have been verified in each instance immediately preceding the preparation of the application. Notwithstanding the filing of such

application, the commissioner may, after reasonable notice of any such society, require that any or all agents of such society to be named as licensees in renewal licenses execute and file separate applications for the renewal of such licenses and he may also require that each such application be accompanied by the certificate specified in paragraph (b) of subsection (2) of KRS 304.29-360.

Section 253. KRS 304.30-050 is amended to read as follows:

(1) The commissioner may revoke or suspend the license of any premium finance company when and if, after investigation, it appears to the commissioner that:

(a) Any license issued to such company was obtained by fraud,

(b) There was any misrepresentation in the application for the license,

(c) The holder of such license has otherwise shown himself untrustworthy or incompetent to act as a premium finance company,

(d) Such company has violated any of the provisions of this chapter, or

(e) Such company has been rebating part of the service charge as allowed and permitted herein to any insurance agent or any employe of an insurance agent or to any other person as an inducement to the financing of any insurance policy with the premium finance company.

(2) Before the commissioner shall revoke, suspend, or refuse to renew the license of any premium finance company, he shall give to such person *notice and* an opportunity to be fully heard and to introduce evidence in his behalf *at a hearing held as provided for in subtitle 2 of this code.* In lieu of revoking or suspending the license for any of the causes enumerated in the section, after hearing as herein provided, the commissioner may subject such company to a penalty of not more than $1,000 for each offense when in his judgment he finds that the public interest would not be harmed by the continued operation of such company. The amount of any such penalty shall be paid by such company through the office of the commissioner to the state treasurer. At any hearing provided by this section, the commissioner shall have authority to administer oaths to witnesses.

(3) If the commissioner refuses to issue or renew any license or if any applicant or licensee is aggrieved by any action of the commissioner, said applicant or licensee shall have the right to a hearing and appeal to the Franklin Circuit Court, within thirty (30) days after any order, decision or finding by the commissioner *as provided for in KRS 304.2-370.*

Section 254. KRS 304.32-120 is amended to read as follows:

When the annual statement of a corporation subject to the provisions of this subtitle shall have been filed and all fees due from the corporation shall have been paid, the corporation's certificate of authority to do business in this state shall automatically be extended until such time as the commissioner refuses to relicense the corporation *after proceedings in accordance with subtitle 2 of this code.* When the fee involved in the renewal of an agent's license shall have been paid by the corporation, or the individual agent, the license shall automatically be extended until such time as the commissioner refuses to renew the license *after proceedings in accordance with subtitle 2 of this code.*

Section 255. KRS 304.32-230 is amended to read as follows:

(1) The commissioner shall not make public the results of any examination or investigation of any corporation found to be insolvent, or with its capital impaired, prior to suspending or revoking the authority of the corporation to do business in this state. If the commissioner determines, after examination, hearing *in accordance with subtitle 2 of this code,* or other evidence, that a corporation is in an unsound condition, or has failed to comply with the law, or with the provisions of this subtitle, or that its condition is, or its methods are, such as to render its operations hazardous to the public, or to its subscribers, or that its actual assets, exclusive of its capital, are less than its liabilities, or if its officers or agents refuse to submit to examination, or to perform any acts relative thereto, or refuse on behalf of the corporation to pay the examination charges, he shall suspend or revoke all certificates of authority granted to the corporation, and to its officers or agents, and shall cause notice to be published in accordance with KRS chapter 424, and no solicitation of new business shall be done by it or its agents in this state, while such default or disability continues, nor until its authority to do business is restored. Before suspending or revoking the certificate of authority of any corporation, unless it is insolvent or its capital impaired, the commissioner shall grant fifteen (15) days in which to show cause why action should not be taken.

(2) A corporation whose certificate of authority has been suspended or revoked by the commissioner, may appeal, within thirty (30) days to the Franklin County Circuit Court *as provided for in KRS 304.2-370.* Upon filing of the appeal, the court shall cause the records and orders of the commissioner to be brought before it, and upon hearing the case de novo, shall by its final decree either affirm, reverse, or vacate the order of the commissioner.

(3) The court shall have the power to make an order suspending or staying the order of the commissioner suspending or revoking the license of a corporation pending the appeal; but the corporation

appealing shall furnish a bond, with sureties, satisfactory to the court, in any amount the court determines to be just and proper, conditioned to pay to the state and to any and all persons any and all loss that may be sustained by reason of the stay or suspension of the commissioner's order. During the period allowed for taking appeal, the publication of notice of the revocation or suspension of license of the corporation as provided by this section shall not be made. If the order of the commissioner is stayed or suspended by order of the court, publication shall not be made until after the discharge of the stay of order or until the affirmation of the order of revocation or suspension.

(4) If, upon appeal, trial is by jury, the court shall submit the cause to the jury upon special interrogatories covering the matters in issue, and if the jury finds the corporation is insolvent because of obligations which exceed its assets, the court may enjoin it from further exercising corporate rights, privileges, or franchises in this state.

(4) (5) (a) If there is a finding of insolvency, the commissioner shall have and exercise all of the powers and authorities set forth in subtitle 33.

(b) If no charge of insolvency is made, or, if made, is not established by the verdict of the jury, but it shall be found by the verdict that the corporation has exceeded its corporate powers or failed to comply with any provision of this subtitle or has done or committed any act for which its license may be revoked or suspended under any provision of this subtitle, or has conducted its business unlawfully or fraudulently, the court may enjoin and restrain it from the commission of such further acts, and if the corporation fails to cease and desist within the time specified by the court, it may be perpetually enjoined from doing any further business in this state. Pending the trial if no bond is furnished as provided, upon motion of the attorney general and upon notice to the corporation, the court may appoint one or more temporary receivers, grant an injunction restraining it and its officers from collecting any debt or demand, and from paying out or in any way transferring or delivering to any person any money, property, or effects, during the pendency of the proceeding except by direction of the court. An appeal shall lie to the Court of Appeals from the circuit court as in other cases; and it shall be the duty of the circuit court and of the Court of Appeals to advance the hearing of matters as far as justice and the business of the court permit.

Section 256. KRS 304.33-110 is amended to read as follows:

(1) Summary order after hearing. Whenever the commissioner has reasonable cause to believe, and determines, after a hearing held as prescribed in subsection (2) of this section, that any insurer has committed or engaged in, or is committing or engaging in or is about to commit or engage in any act, practice or transaction that would subject it to formal delinquency proceedings under this subtitle, he may make and serve upon the insurer and any other persons involved, such orders other than seizure orders under KRS 304.33-120 as are reasonably necessary to correct, eliminate or remedy such conduct, condition or ground. If the order is for a restoration of or addition to capital, it shall be carried out as provided in KRS 304.24-350.

(2) Service, notice, hearing. The notice of hearing under subsection (1) of this section and the summary order issued under subsection (1) of this section shall be served *in accordance with subtitle 2.* by delivery or by mailing certified mail, return receipt requested or by registered mail and postage prepaid, addressed to the insurer at its principal place of business. The notice of hearing under subsection (1) of this section shall state the time and place of hearing, and the conduct, condition or ground upon which the commissioner would base his order. Unless mutually agreed between the commissioner and the insurer, *The* hearing shall occur not less than ten (10) days nor more than thirty (30) days after notice is served and shall be *scheduled and conducted in accordance with this Act* either in Franklin County or in some other place convenient to the parties to be designated by the commissioner.

(3) Judicial relief. Subsequent to a hearing the insurer or any person whose interests are substantially affected shall be entitled to judicial review of any order issued by the commissioner *may be instituted in accordance with subtitle 2.*

(4) Enforcement by injunction. The commissioner may apply for and any court of general jurisdiction may grant, such restraining orders, temporary and permanent injunctions and other orders as are deemed necessary to enforce a summary order.

Section 257. KRS 304.34-100 is amended to read as follows:

(1) If any bail bondsman is convicted by a court of a violation of any of the provisions of this subtitle, the license of such individual shall therefore be deemed to be immediately revoked, without any further procedure relative thereto by the commissioner.

(2) As to licenses issued under this subtitle and thereafter suspended or revoked, or renewal thereof refused by the commissioner, the procedures hereinafter set forth in this section shall apply:

(a) If after investigation or upon other evidence the commissioner has reason to believe that there may exist any one or more causes for suspension, revocation or refusal to renew or continue the license of any bail bondsman as such causes are specified in subsection (1) of KRS 304.34-090 or that a bail bondsman has been guilty of violating any of the laws of this state relating to bail bonds, the commissioner shall mail written notice by certified mail, return receipt requested or by registered mail of his intention to suspend, revoke, or to renew the license as the case may be, accompanied by a copy of the charges against the licensee to the licensee, and, if applicable, to the insurer or corporation represented by the licensee agent, or the bail bondsman represented by the licensee if an employe of another licensed bail bondsman.

(b) If within *thirty (30)* twenty (20) days after the date of mailing the notice and charges as provided for in paragraph (a) of this subsection, the licensee has not filed with the commissioner a written answer to such charges coupled with a written request for a hearing thereon, the commissioner may proceed to suspend, revoke or refuse to renew the license.

(c) If within such *thirty (30)* twenty (20) days an answer and request for hearing is so filed with the commissioner, the commissioner shall hold a hearing with respect to the charges, the hearings to be held *in accordance with subtitle 2 of this code* within sixty (60) days of the date of the mailing of the notice and charges referred to in paragraph (a) of this subsection, unless postponed by the mutual consent of the parties. The commissioner shall give the licensee written notice of the hearing and of the matters to be considered thereat not less than ten (10) days in advance of the hearing date .

(d) Following the hearing the commissioner shall make his order thereon and mail a copy thereof by certified mail, return receipt requested or by registered mail to the address last of record in his office of each party to the hearing. If by his findings made upon the hearing the commissioner finds that one or more of the causes thereof exist as specified in subsection (1) of KRS 304.34-090 his order shall incorporate the taking of action relative to suspension, revocation or refusal to renew the license as authorized.

(3) Appeals from final orders of the commissioner under this subtitle shall be made to the Franklin Circuit Court pursuant to the Kentucky Rules of Civil Procedure.

Section 258. KRS 304.36-100 is amended to read as follows:

(1) The commissioner shall:

(a) Notify the association of the existence of an insolvent insurer not later than three days after he receives notice of the determination of the insolvency.

(b) Upon request of the board of directors, provide the association with a statement of the net direct written premiums of each member insurer.

(2) The commissioner may:

(a) Require that the association notify the insureds of the insolvent insurer and any other interested parties of the determination of insolvency and of their rights under this subtitle. Such notification shall be by mail at their last known address, where available, but if sufficient information for notification by mail is not available, notice by publication in a newspaper of general circulation shall be sufficient.

(b) Suspend or revoke, after notice and hearing, the certificate of authority to transact insurance in this state of any member insurer which fails to pay an assessment when due or fails to comply with the plan of operation. As an alternative, the commissioner may levy a fine on any member insurer which fails to pay an assessment when due. Such fine shall not exceed 5 percent of the unpaid assessment per month, except that no fine shall be less than $100 per month.

(c) Revoke the designation of any servicing facility, *after notice and hearing,* if he finds claims are being handled unsatisfactorily.

Section 259. KRS 304.37-080 is amended to read as follows:

Whenever it appears to the commissioner that any person has committed a violation of this subtitle which makes the continued operation of an insurer contrary to the interest of policyholders or the public, the commissioner may, after giving notice and an opportunity to be heard *in accordance with subtitle 2 of this code,* determine to suspend, revoke or refuse to renew such insurer's license or authority to do business in this state for such period as he finds is required for the protection of policyholders or the public. Any such determination shall be accompanied by specific findings of fact and conclusions of law.

Section 260. KRS 304.37-100 is amended to read as follows:

(1) Any person aggrieved by any act, determination, rule, regulation, order, or any other action of the commissioner pursuant to this subtitle, may file appropriate proceedings in the Franklin Circuit Court or other court of competent jurisdiction for proper relief *in accordance with subtitle 2.*

(2) The filing of an appeal pursuant to this section or other court proceeding shall not stay the application of such order or other action of the commissioner unless the court, after giving notice to the parties and an opportunity to be heard, determines that such a stay would not be detrimental to the interest of policyholders, shareholders, creditors, or the public.

(2) (3) Any person aggrieved by any failure of the commissioner to act or make a determination required by this subtitle may petition the Franklin Circuit Court for a mandatory injunction or other injunctive relief directing the commissioner to act or make such determination forthwith.

Section 261. KRS 304.38-110 is amended to read as follows:

The Commissioner shall, after notice and hearing, promulgate such reasonable rules and regulations as are necessary to provide for the licensing of agents, and the termination or revocation of such license *in accordance with this Act*. An "agent" means any person directly or indirectly associated with such organization who engages in solicitation or enrollment of persons for profit or pecuniary gain in a health maintenance organization.

Section 262. KRS 311.490 is amended to read as follows:

(1) A suspension or revocation of a license, or a refusal to renew a license, may be made by the board only after a hearing *in accordance with this Act* of which the accused has been given adequate notice. At the hearing, the board and the accused shall have the benefit of counsel.

(2) The board may administer oaths, take the depositions of witnesses as in civil cases and compel them to attend before it in person as in civil cases by subpoena issued over the signature of the president of the board and in the name of the state.

(3) Proceedings for the suspension or revocation of a license may be instituted by any individual, or organization, or by the board acting upon its own initiative or by the secretary on behalf of the board.

(4) The board may institute, in its own name, proceedings to temporarily or permanently restrain and enjoin violations of KRS 311.380 to 311.510, regardless of whether the defendant has been convicted for violations of the penal provisions thereof, and shall not be required to pay any cost or filing fees or furnish any bond in connection therewith. Violations of injunctions and restraining orders shall be punished as a contempt without the intervention of a jury.

Section 263. KRS 311.510 is amended to read as follows:

A licensee whose license has been revoked or suspended by the board, or who has been refused a renewal license, may , within thirty (30) days of the entry of the order, appeal to the circuit court *for judicial review of the board's order in accordance with this Act.* of the county in which the hearing was held. The person taking the appeal shall serve upon the board a written notice of the appeal, and shall file with the board an appeal bond with good and sufficient surety, to be approved by the president of the board, conditioned for the speedy prosecution of the appeal and the payment of any costs charged against him upon the appeal. The board, within ten (10) days after the service of notice of appeal and the filing and approval of the bond, shall transmit to the clerk of the court a certified copy, under the seal of the board, of the accusations on which the ruling of the board was based and the ground for appeal, together with the notice and bond of appeal. The clerk shall then docket the case, and it shall be tried in all respects like an ordinary civil action. Either party may appeal from the judgment of the circuit court to the Court of Appeals as in a civil action. The order appealed from shall be stayed from the date of the approval of the bond until final determination of the appeal.

Section 264. KRS 311.565 is amended to read as follows:

(1) Subject to the provisions of KRS 311.550 to 311.620, the board shall exercise all of the administrative functions of the state in the prevention of empiricism and in the regulation of the practice of medicine and osteopathy. The board is authorized to issue reasonable rules and regulations establishing requirements, standards and tests to determine the moral, physical, intellectual, educational, scientific, technical and professional qualifications of applicants for licenses and permits to practice medicine and osteopathy, and to issue, deny, suspend, limit, restrict and revoke licenses , and to place licensees on probation *in accordance with this Act*, in compliance with the provisions of KRS 311.550 to 311.620, so as to carry out the legislative policy declared in KRS 311.555, provided, however, that the board shall not have power to authorize any person to engage in the practice of podiatry as defined in KRS 311.380, the practice of dentistry as defined in KRS 313.010, the practice of optometry as defined in KRS 320.210, the practice of chiropractic as defined in subsection (2) of KRS 312.015, the practice of nursing as defined in KRS 314.011, the practice of pharmacy by persons licensed and registered under KRS 315.050 or the practice of midwifery so long as midwifery is regulated by any other state agency.

(2) The board is authorized in its sound discretion to:

(a) Appoint one or more assistant secretaries, who need not be members of the board, and fix their compensation. Each assistant secretary shall be under the supervision and control of the secretary and shall be authorized to discharge the duties of the secretary as provided by KRS 311.550 to 311.620.

(b) Appoint one or more hearing *examiners in accordance with this Act* officers , who need not be members of the board, and fix their compensation. Every such hearing *examiner* officer shall be vested with the full and complete power and authority of the board to schedule and conduct hearings *in accordance with this Act* on behalf of and in the name of the board on all matters referred for hearing by the board or secretary thereof, including, among other things, proceedings for placing licensees on probation and for limitation, suspension and revocation of licenses, and shall cause to be prepared and furnished to the board, for decision thereon by the board, a complete written transcript of the record of the hearing. which shall contain all evidence introduced at the hearing and all pleas, motions and objections and all rulings of the hearing officer. Every such hearing *examiner* officer shall be authorized to administer oaths and issue summonses, notices and subpoenas, but shall not be empowered to place any licensee on probation or to issue, refuse, suspend, limit or revoke any license.

(c) Promulgate a code of conduct governing the practice of medicine and osteopathy, which shall be based upon generally recognized principles of professional ethical conduct.

(d) Utilize gratuitous services and facilities of professional organizations, and procure and receive the assistance and recommendations of said organizations in administering KRS 311.550 to 311.620.

(e) Make its personnel and facilities available to other regulatory boards, commissions and agencies upon such terms and conditions for reimbursement as may be mutually agreed to by and between the board and such other board, commission or agency.

(f) Enter into reciprocal agreements with medical examining boards of other states, having qualifications and standards at least as high as those of this state, providing for reciprocal licensure without further examination of persons who have been duly licensed upon written examination. Approval of such agreements by the Governor, or any other officer or agency of this state, shall not be required.

(g) Issue regular licenses by endorsement, and without further examination, to persons who have successfully completed a written examination in another state having qualifications and standards at least as high as those of this state, or who have successfully passed an examination conducted by the National Board of Medical Examiners, the National Board of Examiners for Osteopathic Physicians and Surgeons, or any approved successors thereof.

(h) Issue and renew, or refuse to issue or renew, or cancel and terminate limited licenses pursuant to rules and regulations prescribed by the board *in accordance with this Act.*

(i) Appoint examiners, who need not be members of the board, and employ or contract with the American Public Health Association or the national board of medical examiners or other organizations, agencies or individuals to prepare examinations questions and grade examination papers.

(j) Determine the schools, colleges, universities, institutions, and training acceptable in connection with licensure under KRS 311.550 to 311.620.

(k) Prescribe the time, place, method, manner, scope and content of examinations; Provided, however, That at least two (2) examinations shall be held annually.

(l) Prescribe all forms which it considers appropriate, and require the submission of photographs, fingerprints, and personal history data.

(m) Prescribe and collect reasonable fees and charges for examinations, directories and the issuance and renewal of licenses and permits.

Section 265. KRS 311.570 is amended to read as follows:

(1) No person shall be eligible for a regular license under KRS 311.550 to 311.620, unless (a) at least eighteen years of age, (b) of good moral character, (c) able to speak and write the English language, (d) graduated from an accredited high school or its equivalent and satisfactorily completed and graduated from a prescribed course of instruction in a medical or osteopathic school or college situated in the United States or Canada and approved by the board during the entire period of attendance thereat, (e) satisfactorily completed at least a one-year internship or a prescribed course of postgraduate training of not less than one year in an institution approved by the board, and (f) possessing all of the other qualifications that may be prescribed by rules and regulations of the board. Provided, however, that the foregoing shall not be construed to prohibit the board from issuing a regular license to persons who have attended medical or osteopathic schools or colleges situated outside the United States or Canada if such schools or colleges are approved by the board and if such persons have been certified by the Education Council for Foreign Medical Graduates, or its equivalent.

(2) Subject to the exceptions set out herein, no person who possesses the qualifications set out in paragraphs (a), (b) and (c) of subsection (1) of this section, and who has been graduated from an accredited high school, has satisfactorily completed a premedical course of instruction of at least two years in an accredited college or university, has satisfactorily completed and been graduated from a prescribed course of instruction in a medical or osteopathic school or college situated in the United States or Canada and approved by the American Medical Association or the American Osteopathic Association during the entire period of attendance thereat, and who has completed an internship of one year or a course of postgraduate training of not less than one year's duration approved by the board in a hospital approved for such training by the same associations, shall be denied admission to the examination in this state for a regular license, upon payment of the prescribed fee. However, the board may deny admission to the examination or refuse to issue a license upon successful passage of the examination, *after notice and opportunity for hearing in accordance with this Act,* upon proof that the applicant: (a) has been convicted for violating any state or federal narcotic or barbiturate law, (b) has failed the examination in another state or has had his license suspended or revoked in

some other state, (c) has been convicted of a felony, (d) is emotionally unstable, (e) has been adjudged to be of unsound mind, (f) has violated KRS 311.585, or (g) has engaged in any acts or conduct that would constitute grounds for suspension or revocation of a license under KRS 311.550 to 311.620.

(3) No person shall be eligible for a limited license unless (a) at least eighteen years of age, (b) of good moral character, (c) able to speak and write the English language, (d) actually residing in Kentucky at the time of making application or expressing in writing an intention to become an actual resident of this state after issuance of the limited license, (e) has been graduated from an accredited high school or its equivalent and has satisfactorily completed and been graduated from a prescribed course of instruction in a medical school approved by the board for limited licenses, (f) has successfully completed the examination conducted by the Education Council for Foreign Medical graduates, or its equivalent, and (g) possesses all the other qualifications and education that may be prescribed by rules and regulations of the board. Provided, however, that all limited licenses issued by the State Board of Health prior to September 1, 1972, may be renewed by the State Board of Medical Licensure if the applicant meets the statutory requirements which were in effect at the time he was first granted a limited license, and such limited licensees shall be entitled to regular licenses whenever they can meet the requirements of this chapter.

(4) Except as provided by subsection (2) (g) of KRS 311.565 no license shall be issued except upon the successful passage of an examination as prescribed by the board. All applicants for a regular license must take the same general examination, and in addition, osteopathic applicants shall take an examination in osteopathic principles and practice.

(5) No person shall be deemed to have successfully passed an examination in this state unless he makes an average grade of at least seventy-five in all subjects or sections prescribed by the board, and a grade of at least sixty-five in each subject or section.

(6) No license shall be issued, refused, suspended, limited, restricted or revoked by the board, nor shall any licensee be placed on probation, except in compliance with KRS 311.550 to 311.620 and the rules and regulations promulgated thereunder by the board and filed pursuant to KRS Chapter 13.

Section 266. KRS 311.595 is amended to read as follows:

(1) Where such power has not been transferred by statute to some other board, commission or agency of this state, the board may deny an application for a license; place a licensee on probation for a period not to exceed five years; suspend a license for a period not to exceed five years; limit or restrict a license for an indefinite period; or revoke any license heretofore or hereafter issued by the board, *after notice and opportunity for a hearing in accordance with this Act and* upon proof that the licensee has:

(a) Knowingly made or presented, or caused to be made or presented, any false, fraudulent or forged statement, writing, certificate, diploma or other thing, in connection with an application for a license or permit.

(b) Practiced, or aided or abetted in the practice of fraud, forgery, deception, collusion or conspiracy in connection with an examination for a license.

(c) Committed, procured or aided in the procurement of an unlawful abortion.

(d) Been convicted of a felony involving moral turpitude. The conviction of any offense in another state, territory or country, which if committed in this state would be deemed a felony shall be held to be a felony under this section without regard to its designation in such other state, territory or country.

(e) Become addicted to a drug habit.

(f) Become a chronic or persistent alcoholic.

(g) Developed such physical or mental disability, or other condition, that continued practice is dangerous to patients or to the public. In enforcing this paragraph the board shall, upon probable cause, have authority to compel a physician to submit to a mental or physical examination by physicians designated by it. Failure of a physician to submit to such examination when directed shall constitute an admission of the allegations against him (unless the failure was due to circumstances beyond his control) consequent upon which a default and final order may be entered without the taking of testimony or presentation of evidence. A physician whose license has been suspended, limited, restricted or revoked under this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate that he can resume the competent practice of medicine with reasonable skill and safety to patients.

(h) Engaged in dishonorable, unethical, or unprofessional conduct of a character likely to deceive, defraud or harm the public or any member thereof.

(i) Knowingly made, or caused to be made, or aided or abetted in the making of, a false statement in any document executed in connection with the practice of his profession.

(j) Employed, as a practitioner of medicine or osteopathy in the practice of his profession in this state, any person not duly licensed; or otherwise aided, assisted or abetted the unlawful practice of medicine or osteopathy or any other healing art.

(k) Violated or attempted to violate, directly or indirectly, or assisted in or abetted the violation of, or conspired to violate any provision or term of any medical practice act, including but not limited to the code of conduct promulgated by the board under KRS 311.601 or any other valid regulation of the board.

(l) Violated any order of suspension, or the terms or conditions of any order of probation, issued by the board.

(m) Engaged in or attempted to engage in the practice of medicine or osteopathy under a false or assumed name.

(n) Obtained a fee or other thing of value on the fraudulent representation that a manifestly incurable condition could be cured.

(o) Willfully violated a confidential communication.

(p) Had his license to practice medicine or osteopathy in any other state, territory or foreign nation revoked, suspended, restricted or limited or has been subjected to other disciplinary action by the licensing authority thereof.

(q) Failed or refused, without legal justification, to practice medicine in a rural area of this state in violation of a valid medical scholarship loan contract with the Trustees of the rural Kentucky medical scholarship fund.

(r) Given or received, directly or indirectly, from any person, firm, or corporation, any fee, commission, rebate, or other form of compensation for sending, referring or otherwise inducing a person to communicate with a person licensed under KRS 311.530 to 311.620 in his professional capacity or for any professional services not actually and personally rendered; Provided, however, That nothing contained in this subsection shall prohibit persons holding valid and current licenses under KRS 311.530 to 311.620 from practicing medicine in partnership or association or in a professional service corporation authorized by KRS Chapter 274, as now or hereafter amended, or from pooling, sharing, dividing or apportioning the fees and monies received by them or by the partnership, corporation or association in accordance with the partnership agreement or the policies of the board of directors of the corporation or association. Nothing contained in this subsection shall abrogate the right of two or more persons holding valid and current licenses under KRS 311.530 to 311.620 to receive adequate compensation for concurrently rendering professional care to a single patient and divide a fee, provided the patient has full knowledge of this division and provided the division is made in proportion to the services performed and responsibility assumed by each.

(2) In every proceeding for probation, suspension, limitation, restriction or revocation of a license, the secretary shall furnish the licensee with written notice *in accordance with this Act* setting out the substance of each offense charged, with sufficient detail to reasonably apprise such a person of the nature, time and place thereof . Proceedings and forms shall be in accordance with rules and regulations of the board *promulgated under this Act*, and hearings may be conducted by hearing *examiners* officers of the board as provided in subsection (2)(b) of KRS 311.565. *Charges* , but no hearing shall be conducted until at least thirty days' written notice thereof has been given to the holder of the license, who shall have the right to be present, in person or by counsel, and to present evidence and to be heard in opposition to the charges which may be instituted by any individual, or organization, or by the board acting upon its own initiative or by the secretary on behalf of the board. Preliminary to the institution of any such proceeding, the secretary may refer the charge or charges to the state organization which represents the profession to which the holder of the license belongs, for investigation and recommendations as to adjustment, settlement or disciplinary action, and such professional organization may assist in the prosecution or defense of any such proceedings before the board, which shall not be bound to follow its recommendations.

(3) Except as otherwise provided in this subsection, every order of the board suspending, limiting, restricting or revoking a license shall become effective thirty days after the order becomes final after notice is given to the licensee, unless said licensee, within thirty days *after the order becomes final* from the giving of such notice , appeals therefrom in the manner provided by subsection (4) of this section. Provided, however, that the board may, when in its opinion the continued practice by the licensee during the time allowed for appeal would be dangerous to the health, welfare and safety of the licensee's patients or the general public, provide in its order of suspension, limitation, restriction or revocation that said order shall become effective forthwith and the licensee shall not, after notice of same, engage or continue to engage in any prohibited practice under the license unless and until the order is reversed or modified by a final and unappealable order or judgment of a court made pursuant to the provisions of subsection (4) of this section.

(4) Any licensee who is aggrieved by an order of the board placing the licensee on probation, or suspending, limiting, restricting or revoking his license may procure a declaration of rights under the Declaratory Judgment Act by filing, within thirty days after notice of said order, a complaint against the board in the circuit court of the county in which the board's offices are located, together with a bond with good and sufficent sureties thereon to cover all costs, which complaint shall request judicial review of the order and the proceedings held by the board, or its hearing *examiner* officer , *in accordance with this Act* and set out with particularity the grounds relied upon for reversal or modification of the order. Summons and a copy of the complaint may be served upon the secretary for and on behalf of the board, and the secretary shall, within thirty days after such service and the filing of said bond, file with the court a transcript of the record of hearing together with a certified copy of the order complained of. The board may file an answer, or such other pleadings as it considers appropriate, and the court shall, after considering the transcript of the record and the

board's order and any arguments of counsel, enter judgment. No new or additional evidence shall be introduced in the circuit court. In the event the action of the board is not sustained the court shall, upon request of the board, remand the case to the board for further proceedings. Any party aggrieved by the final judgment, order or decree rendered in the case may appeal therefrom to the Court of Appeals of Kentucky in the time, method and manner provided *for other civil cases* in the Declaratory Judgment Act and the Court of Appeals shall docket and advance the appeal as provided in said act .

(5) Any notice, that is required to be given to a licensee by the board, or by its secretary or hearing officer, which is given by forwarding same by registered United States mail, postage prepaid, to the licensee at his last known address as it appears in the files of the board shall be sufficient.

(5) (6) All members of the board, and its secretary and hearing *examiner* officer , have authority to administer oaths, and to issue, in the name of the board, complaints, notices, summonses, subpoenas, and other process, in connection with any charge, proceeding or hearing relating to probation, suspension or revocation.

(6) (7) The board may compel the attendance of witnesses at hearings *to be scheduled and conducted in accordance with this Act* in connection with disciplinary proceedings, and circuit and county courts are, upon petition of the board or its hearing *examiner* officer , authorized and empowered to punish as contempt all failures to obey subpoenas and other process provided in subsection *(5)* (6) of this section and all contemptuous or contumacious conduct directed to the board or its hearing *examiner* officer in the course of disciplinary proceedings.

Section 267. KRS 312.150 is amended to read as follows:

(1) Charges may be preferred by the board against the holder of a license to practice chiropractic in this state on any of the following grounds:

(a) That fraud or deceit was used in securing such license;

(b) That the licensee no longer possesses a good moral character;

(c) That the licensee has been convicted of a violation of any law involving moral turpitude;

(d) That the licensee solicits patients through an agent;

(e) That the licensee is addicted to the use of narcotic drugs;

(f) That the licensee is in any way guilty of any deception, misrepresentation or fraud in the practice of chiropractic.

(2) Upon receipt and due consideration of such charges, the board upon an affirmative vote of two (2) of its members may suspend the license of the person against whom such charges have been preferred. *The* Immediately, but not more than ten (10) days after such suspension, the holder of such license so suspended shall be *given notice of and opportunity for a hearing on such suspension in accordance with this Act* notified thereof in writing and shall be furnished a copy of said charges and notified in writing of the time and place for the hearing of said charges by the board, which hearing shall be within twenty (20) days from the date of the suspension. Further time may be granted by the board for the hearing upon application of the person suspended as shown from the files of the board, which shall be construed as sufficient notice to such person of the suspension of his license, and of the time and place of the hearing by said board of the charges so preferred . The board may hold special meetings for the hearing of such charges.

Section 268. KRS 312.160 is amended to read as follows:

(1) At said hearing the person suspended *shall have such rights as are prescribed in this Act* may cross-examine witnesses against him, and produce witnesses in his behalf and appear personally or by counsel . The board shall keep a record of said hearing *in accordance with this Act* , the testimony so taken and its findings on the charges . If the board by a majority affirmative vote shall sustain the charges, it may revoke the license of the person suspended, in which event the board shall thereupon give written notice in the same manner as provided for the giving of notice of suspension, to the holder of the license which has been revoked.

(2) The person whose license has been revoked shall have the right within *thirty (30)* twenty (20) days to appeal to the Franklin County Circuit Court *in accordance with this Act.* In the event the person whose license has been revoked shall fail to so appeal, the action of the board in revoking his license shall be final.

(3) The action of the board shall be recorded in the same manner as licenses are recorded, and the name of the person whose license is revoked shall be stricken from the list of license holders, and he shall be disqualified from practicing chiropractic in this state.

Section 269. KRS 313.150 is amended to read as follows:

Proceedings to revoke or suspend a license may be taken by the board from the matters within its knowledge or upon the information of another. If the informant is a member of the board, the other members shall constitute the board for the purpose of judging the accused. Every accusation shall be in writing, verified by some person familiar with the facts charged in it. Three (3) copies shall be filed with the secretary-treasurer of the board. Upon receiving the accusation the board shall, if it considers it sufficient, make an order setting the accusation for hearing *in accordance with this Act* at a specified time and place, and requiring the accused to appear and answer it. The secretary-treasurer shall cause a copy of the order and accusation to be served upon the accused *no less than twenty (20)* at least ten (10) days before the day appointed in the order for the hearing.

Section 270. KRS 313.160 is amended to read as follows:

The person accused under KRS 313.150 shall appear at the time appointed in the order, answer the charges and make his defense, unless for sufficient cause the board assigns another day for that purpose. If he does not appear the board may proceed and determine the accusation in his absence. If the accused pleads guilty or refuses to answer the charges, or if upon the hearing the board finds any of them true, it may proceed to a judgment of either revoking his license or suspending it. The board and the accused may have the benefit of counsel. The board may administer oaths, take the depositions of witnesses as in civil cases and compel them to attend before it in person as in civil cases by subpoena issued over the signature of the secretary-treasurer and the seal of the board and in the name of the state. *The hearing shall be scheduled and conducted in accordance with this Act.*

Section 271. KRS 313.180 is amended to read as follows:

A licensee whose license has been revoked by the board may appeal from the revocation order *in accordance with this Act* within thirty (30) days of the cancellation of his license. The appeal shall be to the circuit court of the county in which the board met to revoke the license. Any person who takes such an appeal shall serve upon the secretary-treasurer, a written notice of the appeal, and shall file in the office of the secretary-treasurer, an appeal bond with good and sufficient surety, to be approved by the secretary-treasurer, to the state, conditioned for the speedy prosecution of the appeal and the payment of any costs charged against him upon the appeal. The secretary-treasurer, within ten (10) days after the service of notice of appeal and the filing and approval of the bond, shall transmit to the clerk of the circuit court to which the appeal is taken a certified copy, under the seal of the board, of the accusations on which the revocation was based and the ground for appeal, together with the notice and bond of appeal. The clerk of the circuit court shall docket the case, and it shall be tried in all respects like an ordinary civil action . Either party may appeal from the judgment of the circuit court to the Court of Appeals as in a civil action. The judgment shall be stayed from the date of the approval of the bond until final determination of the appeal.

Section 272. KRS 313.220 is amended to read as follows:

(1) The board shall administer this chapter. It may make regulations for its own conduct and procedure, and provide for affiliation with the American Association of Dental Examiners. It may select the subjects and the standard of proficiency and percentage for examinations to practice dentistry, and it shall conduct the examinations of all applicants for a license under the provisions of this chapter.

(2) The board shall make a report of its proceedings to the governor by February 1 of each year, showing all money received and disbursed by it pursuant to this chapter for the preceding years ended December 31.

(3) The board may employ attorneys to advise and assist it in enforcing this chapter, and pay them a reasonable compensation for such work.

(4) The board may, subject to the provisions of this chapter, regulate the practice of dentistry and the use of dental auxiliary personnel in this state.

(5) The board may employ such assistants, inspectors, investigators, clerks, and other persons as it deems necessary to enforce this chapter. It may authorize any of such employes to make investigations and report to the board with respect to any violation of any of the provisions of this chapter or any regulation or order of the board, to inspect any dental office or place where dental operations are performed and to deliver or transmit to any holder of a license under this chapter any order of the board with respect to the licensee's performance of his work under the authority of such license. If any holder of a license under this chapter fails or refuses to admit any such representative of the board for the purpose of making any such examination or inspection or if any holder of any such license fails or refuses to comply with any order or direction of the board, such failure or refusal shall be reported to the board for whatever disciplinary action it deems appropriate, including revocation of any license if such failure or refusal is deemed by the board to be material. *The board shall make regulations governing the conduct and procedure for any such action in accordance with this Act.*

(6) Any representative of the board performing any of the duties referred to in this section shall be furnished with a copy, certified by the secretary-treasurer, of the order of the board pursuant to which he is performing such duties.

Section 273. KRS 313.330 is amended to read as follows:

(1) The board may, upon complaint or upon its own motion, after a hearing , and after ten (10) days' notice *in accordance with this Act* , in writing, to the licensee of the time and place of hearing, revoke or suspend or refuse to renew the license of any dental hygienist by entering an order to that effect, together with its findings in respect thereto, if it shall be determined that such licensee:

(a) Has violated any of the provisions of KRS 313.260 to 313.350 or any regulation made thereunder; or

(b) Has made a material false statement in his application for examination; or

(c) No longer possesses good moral character; or

(d) Directly or indirectly advertises or solicits for dental hygiene business; or

(e) Is grossly inefficient in his profession.

(2) In any proceeding to revoke, suspend or refuse to renew the license of any licensee a certified copy of any order entered by the board shall immediately be delivered or sent to the licensee by certified mail, return receipt requested or by registered mail at his last known address.

Section 274. KRS 313.340 is amended to read as follows:

Any licensee aggrieved by an order of the board may, within thirty (30) days from the date of entry of said order, appeal to the circuit court in *accordance with this Act* and for the county in which was held the meeting of the board at which the action of the board complained of was taken. In case a person desires to take such an appeal he shall file with the clerk of the circuit court to which the appeal is taken a petition setting forth the grounds of appeal, and shall file with said clerk an appeal bond with good and sufficient security, to be approved by said clerk, to the state of Kentucky, conditioned for the speedy prosecution of such appeal, and the payment of such costs as may be charged against him upon such appeal. Summons on such an appeal shall be issued and may be served on the president or secretary of the board in any county in this state where either of them may be found. Within ten (10) days after the service of summons on such appeal, the secretary shall transmit to the clerk of the circuit court, to which said appeal is taken, a certified copy, under the seal of the board, of all evidence considered and orders entered by the board in connection with said proceeding. The clerk of such court shall thereupon docket such appeal. The court shall only hear and consider such documentary and other evidence as was heard and considered by the board, and that is contained in the transcript upon which the appeal is taken . Either party may appeal from the judgment of the circuit court to the Court of Appeals in the manner as civil actions may be appealed thereto. The order of the board appealed from shall be stayed from the date of the approval of said bond until final determination of the appeal.

Section 275. KRS 314.091 is amended to read as follows:

(1) The board shall have power to deny, revoke, probate or suspend any license to practice nursing issued by the board or applied for in accordance with KRS 314.011 to 314.161 and 314.991, or to otherwise discipline a licensee upon proof that the person: is guilty of fraud or deceit in procuring or attempting to procure a license to practice nursing; or is guilty of a crime or gross immorality; or is unfit or incompetent by reason of negligence, habits or other causes; or is habitually intemperate or is addicted to the use of habit-forming drugs; or is mentally incompetent; or is guilty of unprofessional conduct; or has wilfully or repeatedly violated any of the provisions of KRS 314.011 to 314.161 and 314.991.

(2) In all proceedings for suspension or revocation of the license of a registered or practical nurse *shall be scheduled and conducted in accordance with this Act* , the licensee shall be furnished with a copy of the charges and shall be given at least thirty (30) days to prepare defense. The person charged shall be heard by the board in person or by counsel or both, as may be desired. The presiding officer of the board may administer the oath in any manner arising in the course of duties. In the hearing the board may take oral or written proof for or against the aggrieved person .

Section 276. KRS 314.131 is amended to read as follows:

(1) The board shall meet annually in Frankfort within thirty (30) days after each annual appointment or appointments and shall elect from its members a president and a secretary-treasurer. It shall hold such other meetings during the year as may be deemed necessary to transact business. A majority of the board including one (1) officer shall constitute a quorum at any meeting. The board is authorized to adopt and, from time to time, revise such rules and regulations not inconsistent with the law, as may be necessary to enable it to carry into effect the provisions of KRS 314.011 to 314.161 and 314.991. The board shall prescribe curricula and standards for schools of nursing and courses preparing persons for licensure under KRS 314.011 to 314.161 and 314.991. It shall provide for surveys of such schools and courses at such time as may be necessary, approve such schools and courses as meet the requirements of KRS 314.011 to 314.161 and 314.991 and of the board, evaluate and approve courses for affiliation, and examine, license and renew the license of duly qualified applicants; it shall conduct hearings *in accordance with this Act* upon charges calling for discipline of a licensee or denial or suspension or revocation of a license, have power to issue subpoenas, and compel the

attendance of witnesses, administer oaths to persons giving testimony at hearings, and cause the prosecution of all persons violating any provisions of KRS 314.011 to 314.161 and 314.991. It shall keep a record of all its proceedings and make an annual report to the governor.

(2) The board shall employ a qualified person to serve as executive secretary to the board, and shall fix his compensation and define his duties. It may employ such other persons as may be necessary to carry on the work of the board.

(3) The executive secretary shall meet at least the qualifications for board members and shall have had at least two (2) years of experience in nursing school administration immediately preceding the time of his appointment.

(4) Each member of the board shall receive, in addition to necessary traveling, hotel and other necessary expenses, ten dollars ($10.00) for each day he is actually engaged in the discharge of his official duties. Employes of the board shall be reimbursed for necessary traveling, hotel or other necessary expenses incurred in the discharge of their duties.

Section 277. KRS 315.131 is amended to read as follows:

(1) In every proceeding for probation, suspension or revocation of a license or a permit issued pursuant to this chapter *shall be scheduled and conducted in accordance with this Act* , the secretary of the board shall furnish the licensee or permittee with written notice setting out the substance of each offense charged with sufficient detail to reasonably apprise such person of the nature, time and place thereof . The hearing may be conducted by the board or by a hearing *examiner* officer appointed by the board. The respondent shall be given at least thirty (30) days prior written notice thereof, who shall have the right to be present in person or by counsel and to present evidence and to be heard in opposition to the charges. Upon failure of the licensee or permittee to respond to the complaint at or before the time of the hearing thereon, the allegations set forth in the complaint shall be taken by the board as confessed.

(2) The board or the hearing *examiner* officer appointed by it shall have the authority to issue subpoenas for the attendance of witnesses and the production of papers and records, administer oaths and schedule hearings. All decisions revoking or suspending a license or permit or placing a licensee or permittee on probation shall be made by the board.

(3) Except as otherwise provided in this subsection, every order of the board suspending or revoking a license or permit shall become effective thirty (30) days after notice is given to the licensee or permittee; Provided however, That the board may when in its opinion the continued practice of the licensee or the continued operation of the permittee would be dangerous to the health, welfare and safety of the general public, proclaim in its order of suspension or revocation that said order shall become effective forthwith; in such event that board's order of suspension or revocation shall become effective as of the date specified therein and the licensee or the permittee shall not, after notice of same, engage or continue to engage in any practice or operation under the license or permit issued unless the board's order is revoked or modified by a final unappealable order or judgment.

(4) A licensee or permittee aggrieved by an order of the board suspending or revoking a license or permit may within thirty (30) days after notice thereof appeal thereupon to the circuit court *in accordance with this Act* of the county in which the licensee or permittee conducts his practice or place of business. The appeal shall be determined by the court upon the certified record and no new or additional evidence shall be heard or considered by the court .

(5) Either party aggrieved by a final order entered by the circuit court may appeal to the Court of Appeals as in a civil action.

Section 278. KRS 315.191 is amended to read as follows:

The board is authorized to:

(1) Issue reasonable rules and regulations establishing requirements, standards and tests to determine the moral, physical, intellectual, educational, scientific, technical and professional qualifications of applicants for license to practice pharmacy and to *prescribe procedures consistent with this Act for the board or its employes or its examiners to* issue, deny, suspend and revoke licenses, and to place licensees on probation.

(2) Adopt rules and regulations necessary to regulate and control all matters set forth in this chapter relating to pharmacists and pharmacies, to the extent that regulation and control of same have not been delegated to some other agency of the commonwealth; Provided, however, That such rules and regulations relating to drugs shall be limited to the regulation and control of drugs sold by prescription. However, nothing contained in this chapter shall be construed as authorizing the board to adopt any rules or regulations relating to prices or fees or to advertising or the promotion of the sales or use of commodities or services.

(3) Schedule and conduct hearings or to appoint hearing *examiners* officers to schedule and conduct hearings *in accordance with this Act* on behalf of the board on any matter under the jurisdiction of the board.

(4) Prescribe the time, place, method, manner, scope and subjects of examinations, provided however that at least two (2) examinations shall be held annually.

(5) Employ whatever assistance it considers necessary.

(6) Investigate all complaints or violations of the state pharmacy laws and bring all such cases to the notice of the proper law enforcement authorities.

(7) Make bylaws for the proper execution of its duties.

(8) Perform all other functions necessary to carry out the provisions of law and the rules and regulations adopted by the board relating to pharmacists and pharmacies.

Section 279. KRS 315.990 is amended to read as follows:

(1) Any person violating subsection (1) of KRS 315.020 shall be fined not less than $100 nor more than $1,000 or imprisoned in the county jail for not more than six (6) months, or both.

(2) Any person who violates subsection (2) of KRS 315.020 shall be fined not less than $25.00 nor more than $100 for each offense. Each week that this subsection is violated shall constitute a separate offense.

(3) Any person who violates subsection (3) of KRS 315.020 shall be fined not less than $50.00 nor more than $200 for each offense.

(4) Any person violating KRS 315.030 shall be fined for each offense not less than $100 nor more than $1,000 or imprisoned in the county jail for six (6) months, or both. Each week that an establishment is operated in violation of KRS 315.030 shall constitute a separate offense.

(5) Any proprietor or person in charge of a pharmacy who violates subsection (2) or (3) of KRS 315.080 shall be fined not less than $20.00 nor more than $100 for each offense.

(6) Any person who violates KRS 315.100 shall be fined not less than $25.00 nor more than $100 for each offense.

(7) Any registered pharmacist or registered assistant pharmacist who is habitually intoxicated shall be fined not less than $25.00 nor more than $50.00 for the first and second offenses and upon conviction of the third offense, his license shall be revoked by the board *after notice and opportunity for hearing in accordance with this Act.*

Section 280. KRS 316.150 is amended to read as follows:

(1) The board may, upon sufficient proof submitted to them by sworn statements or testimony, *and after notice and hearing in accordance with this Act* refuse to issue, refuse to renew, or may revoke or suspend, the license of any licensed Kentucky embalmer or funeral director for any of the following causes:

(a) Conviction for violation of the requirements of this chapter; conviction of a felony, or any misdemeanor resulting in imprisonment or a fine of more than five hundred dollars ($500);

(b) The payment or offering to pay, directly or indirectly, of any consideration of value to secure a funeral, prior to death or after death of any individual, or allowing any person in his employ or a member of his immediate family to pay anything of value to secure a funeral;

(c) The solicitation of business in any way by offering or giving any service which is not a normal function of a licensed funeral director or embalmer in a regular service;

(d) Permitting any person who is not a licensed embalmer or funeral director, holding Kentucky license in full force and effect, to perform any service pertaining to embalming or funeral directing required by law of a licensed embalmer or funeral director, from the time of death until interment;

(e) For assisting any applicant for funeral director's or embalmer's license to obtain the license by misrepresentation or fraud either in making application for apprenticeship, registration for apprenticeship, or during the period of serving apprenticeship, or in taking or passing the examination for embalmer's or funeral director's license;

(f) For the operation of a branch establishment without a licensed embalmer and funeral director in complete charge who devotes his or her sole time to the management and affairs of the branch establishment and who is subject to call at all times in the section where the branch is located. The branch manager must be a licensed embalmer and a licensed funeral director with his license in full force and effect in Kentucky.

(2) For the purposes of taking testimony under this section, and for the purposes of any other section of this chapter, each member of the board, and the secretary thereof, is hereby endowed with the authority to administer oaths in the same manner as a clerk of a court of record. The board, or any member thereof, may subpoena licensees or other witnesses to appear before it.

Section 281. KRS 316.160 is amended to read as follows:

An appeal may be taken *in accordance with this Act* to the Franklin Circuit Court from any decision of the board revoking, suspending, or refusing to issue or renew, any license. Upon appeal the court shall be limited to a determination as to whether the board had acted in excess of its powers, or fraudulently or arbitrarily.

Section 282. KRS 317.460 is amended to read as follows:

(1) The barber board shall hold hearings upon the request of any person directly affected by the board's decision to refuse a license or to deny or revoke a license and no license renewal shall be denied nor shall a license be revoked unless the board in advance shall have given the licensee twenty (20) days written notice of the revocation or refusal to renew *in accordance with this Act* stating the grounds therefor .

(2) Hearings conducted by the board shall *be in accordance with this Act* afford reasonable opportunity for the complainant to be present and represented by counsel, to examine and to cross-examine any witness and produce any competent and relevant proof though the board need not follow strict rules of evidence in the conduct of such hearings .

(3) Rulings of the barber board as a result of any hearing may be appealed to the Franklin Circuit Court *in accordance with this Act* by filing with said court within thirty (30) days from date of entry of the order a certified copy of the ruling or order of the board. The court shall not set aside any ruling or order of the barber board if there was any competent evidence before the board to justify the ruling or order .

(4) The board is authorized to issue subpoenas for the attendance of witnesses and the production of such records and documents as may be reasonably necessary in the conduct of any hearing.

Section 283. KRS 317.590 is amended to read as follows:

(1) Licenses shall not be issued or renewed and such licenses as are issued shall be revoked *after notice and hearing in accordance with this Act* upon proper showing of applicant's or licensee's:

(a) Conviction of a felony;

(b) Gross malpractice or incompetence; or

(c) Mental or physical health that would endanger public health or safety.

(2) A license may be refused or revoked by the board *after notice and hearing in accordance with this Act* for the following reasons:

(a) Failure to comply with regulations or rules of the board;

(b) False or deceptive advertising;

(c) Practicing in an unlicensed shop or in a shop knowing that such shop is not complying with this chapter or regulations of the board promulgated pursuant to this chapter;

(d) Immoral or unprofessional conduct;

(e) Teaching in an unlicensed school or in a school knowing that such school is not complying with this chapter or regulations of the board promulgated pursuant to this chapter.

Section 284. KRS 317A.070 is amended to read as follows:

(1) The cosmetologist board shall hold hearings upon the request of any person directly affected by the board's decision to refuse to renew a license or to deny or revoke a license and no license renewal shall be denied nor shall a license be revoked unless the board in advance shall have given the licensee twenty (20) days written notice of the revocation or refusal to renew *in accordance with this Act* stating the grounds therefor ;

(2) Hearings conducted by the board shall *be in accordance with this Act* afford reasonable opportunity for the complainant to be present and represented by counsel, to examine and to cross-examine any witnesses and produce any competent and relevant proof though the board need not follow strict rules of evidence in the conduct of such hearings ;

(3) Rulings of the board as a result of any hearing may be appealed to the Circuit Court *in accordance with this Act* the county where the appellant resides by filing with said court within thirty (30) days from the date of entry of the order a certified copy of the ruling or order of the board if there was any competent evidence before the board to justify the ruling or order ;

(4) The board is authorized to issue subpoenas for the attendance of witnesses and the production of such records and documents as may be reasonably necessary in the conduct of any hearing.

Section 285. KRS 318.066 is amended to read as follows:

(1) No license shall be suspended or revoked by the department unless a hearing has been conducted or an opportunity afforded therefor , at which the holder of the license shall have the right to be present in person or by counsel and to present evidence and be heard in his own behalf. The holder of the license shall be given written notice of the hearing at least thirty (30) days prior to the date thereof. The notice shall state the time and place of the hearing and set forth the ground or grounds for the suspension or revocation in sufficient detail to apprise the holder of the license of the charges preferred against him . Upon failure of the holder of the license to respond to the complaint at or before the time of the hearing thereon, the allegations set forth in the complaint shall be taken by the department as confessed. Proceedings at such hearings shall be in accordance with the rules and regulations of the board *promulgated in accordance with this Act.*

(2) The department shall appoint and provide for a hearing *examiner* officer to conduct such hearings. The hearing *examiner* officer shall have authority to issue subpoenas for the attendance of witnesses and the production of papers and records, administer oaths, schedule hearings and otherwise act in

the name and on behalf of the department, but shall not have authority to suspend or revoke licenses. He shall cause to be prepared and shall certify to the department a complete written transcript of the record of each hearing, including all pleas, motions and other papers relating thereto, for consideration and decision by the department. An order of the department suspending or revoking a license shall be effective thirty (30) days after notice of the entry of such order is given the holder thereof.

(3) Each notice required by this section to be given a licensee shall be served by forwarding same by certified mail, return receipt requested or by registered mail, postage prepaid, to the holder at his address as it appears in the records of the department.

(4) A licensee aggrieved by an order of the department suspending or revoking a license may, within thirty (30) days after notice thereof, appeal therefrom to the board in the manner provided by KRS 311.595. The decision of the board shall be based on the transcript of evidence prepared by the hearing *examiner* officer .

(5) A person aggrieved by an order of the board suspending or revoking a license may , within thirty (30) days after notice of such suspension or revocation, appeal therefrom to the circuit court *in accordance with this Act* of the county in which the principal office of the department is located by filing a statement of appeal therein together with an appeal bond with good and sufficient surety to secure the payment of any costs charged against him on the appeal. The cost of preparing and certifying the record shall be paid to the department by the appellant and taxed as costs in the action to be paid as directed by the court upon final determination of the action. The appeal shall be determined by the court upon the certified record and no new or additional evidence shall be heard or considered by the court .

(6) Either party aggrieved by a final order entered by the circuit court may appeal to the Court of Appeals as in a civil action.

Section 286. KRS 319.091 is amended to read as follows:

(1) The board may not suspend or revoke or refuse to issue or to renew any license or certificate for any cause listed in KRS 319.081, unless the person accused has been given at least twenty (20) days' notice in writing of the charge against him and a public hearing by the board *in accordance with this Act.* The written notice shall be mailed to the person's last known address, but the nonappearance of the person shall not prevent such a hearing.

(2) Upon such a hearing the board may administer oath and procure by its subpoenas the attendance of witnesses and the production of relevant books and papers.

Section 287. KRS 319.101 is amended to read as follows:

Any person who has been denied a license or certificate or whose license or certificate has been revoked or suspended by the board may appeal to the Franklin Circuit Court *in accordance with this Act* for a trial certiorari by filing with the clerk a certified copy of the record made in proceedings before the board and his petition requesting a trial. The board shall make certified copies of any charges upon demand of the applicant. When the copy of the charge is lodged with the clerk of the Franklin Circuit Court and the required deposit of court cost is paid within ten (10) days after the board's findings, the appeal shall be considered perfected and shall be docketed and stand for trial. No such appeal shall operate as a supersedeas to such revocation or suspension .

Section 288. KRS 320.320 is amended to read as follows:

(1) Proceedings to revoke or suspend a license may be taken by the board from the matters within its knowledge or upon the information of another. If the informant is a member of the board, the other members shall constitute the board for the purpose of judging the accused. Every accusation shall be in writing, verified by some person familiar with the facts charged in it. Three (3) copies shall be filed with the secretary-treasurer of the board. Upon receiving the accusation the board shall, if it considers it sufficient, make an order setting the accusation for hearing *in accordance with this Act* at a specified time and place, and requiring the accused to appear and answer it. The secretary-treasurer shall cause a copy of the order and accusation to be served upon the accused *no less than twenty (20)* at least ten (10) days before the day appointed in the order for the hearing.

(2) The person accused shall appear at the time appointed in the order, answer the charges in writing and make his defense, unless for sufficient cause the board assigns another day for that purpose. If he does not appear the board may proceed and determine the accusation in his absence. If the accused pleads guilty or refuses to answer the charges, or if upon the hearing the board finds any of them true, it may proceed to a judgment of either revoking his license or suspending it. The board and the accused may have the benefit of counsel. The board may administer oaths, take the depositions of witnesses as in civil cases and compel them to attend before it in person by the issuance of subpoenas over the signature of the secretary-treasurer and the seal of the board and in the name of the commonwealth.

(3) The revocation of any license shall be noted upon the records of the board, and the license shall be marked as canceled upon the date of its revocation. The secretary-treasurer of the board shall, upon entry of a judgment of suspension or revocation, transmit to the county clerk of the county in which the license affected by the judgment is recorded, a copy of the judgment order, certified to as such by the secretary-treasurer for record. The copy of the judgment order shall be recorded in the same manner and the same book in which the record of the certificate to practice optometry is kept.

Section 289. KRS 320.330 is amended to read as follows:

A licensee whose license has been revoked by the board may appeal from the revocation order within thirty (30) days of the cancellation of his license. The appeal shall be to the circuit court *in accordance with this Act* of the county in which the accused regularly practices. Any person who takes such an appeal shall serve upon the secretary-treasurer, a written notice of the appeal, and shall file with the clerk of the circuit court to which such appeal is taken an appeal bond with good and sufficient surety, to be approved by the clerk, to secure the payment of any costs charged against him upon the appeal. The secretary-treasurer, within ten (10) days after the service of notice of appeal, shall transmit to the clerk of the circuit court to which the appeal is taken a certified copy, under the seal of the board, of the accusations on which the revocation was based and of the order of revocation. The clerk of the circuit court shall docket the case. It shall be tried de novo and in all respects like an ordinary civil action. Either party may appeal from the judgment of the circuit court to the Court of Appeals as in a civil action. The judgment shall be stayed from the date of the approval of the bond until final determination of the appeal .

Section 290. KRS 321.280 is amended to read as follows:

The board shall keep a record of its proceedings in a book provided for that purpose, which book shall be open for inspection, and shall record the name of each applicant, the time of granting a certificate of license, the names of the members of the board present; and where a certificate of license is denied by the board to any applicant under the authority of this chapter, the fact and ground of each denial shall be entered in the minutes of the board and shall be communicated in writing to such applicant *in accordance with this Act.*

Section 291. KRS 321.360 is amended to read as follows:

The board, before denying an application for license under the provisions of KRS 321.340 or before suspending or revoking any license under the provisions of KRS 321.340 and 321.350, shall set the matter down for hearing *in accordance with this Act* ; and, at least twenty (20) days prior to the date set for the hearing it shall notify the applicant or licensee in writing, which said notice shall contain an exact statement of the charges made and the date and place of the hearing. The applicant or licensee in all hearings shall have the opportunity to be heard in person and by counsel in reference thereto. Such written notice may be served by delivery of the same personally to the applicant or licensee or by mailing same by certified mail, return receipt requested or by registered mail to the last known business address of such applicant or licensee. The hearing on such charges shall be at such time and place as the board shall prescribe .

Section 292. KRS 321.390 is amended to read as follows:

(1) If the board, pursuant to the provisions of KRS 321.340, shall determine, after due hearing, that any applicant is not entitled to receive a license such license shall not be granted to the applicant; and if the board, after due hearing, shall determine that any licensee is guilty of a violation of the provisions of KRS 321.340 or 321.350 the license shall be suspended or revoked. The board, upon request of the applicant or licensee, shall furnish said applicant or licensee with a definite statement of its findings of fact and its reason or reasons for refusing to grant the license or suspension of the rights of the licensee or for revocation of the license, as the case may be. The findings of fact by the board acting within its powers shall, in the absence of fraud, be conclusive, but *A* a ny person aggrieved shall have the right of an appeal from the findings of the board *in accordance with KRS 321.400.*

(2) Upon suspension or revocation of any license or certificate of license it shall be the duty of the board to give official notice of such action, under seal, to the county clerk of the county in which the holder is registered, and such name shall be marked as suspended for the period indicated or stricken from the register in accordance with such notice, and if such holder shall continue the practice he shall thereupon be subject to the penalties provided in this chapter.

Section 293. KRS 321.400 is amended to read as follows:

(1) Any party aggrieved by the action of the board in refusing to grant a license, or in suspending or revoking a license upon the basis of the provisions of KRS 321.340 and 321.350, or either of said sections, within thirty (30) days after the entry by the board of such order of refusal, revocation or suspension, may *file a petition in circuit court for review of such action in accordance with this Act* bring an action against

the board in the Franklin Circuit Court to vacate or set aside the order of the board on the ground that it is unlawful or unreasonable. Service of summons or any notice upon the board may be made on the chairman or the secretary-treasurer of the board, which will constitute effective service on said board and all its members.

(2) The answer of the board shall be filed within twenty (20) days after the board is served with process in such action. The action will then be at issue, and stand ready for trial upon ten (10) days' notice to either party, on the equity side of the docket of the court. Injunctive relief may be granted by the court in the manner and upon the terms provided by law .

Section 294. KRS 322.200 is amended to read as follows:

(1) All charges, unless dismissed by the board as unfounded or trivial, shall be heard by the board within six months after the date on which they are preferred. Provided, however, That a charged party may waive his right to a hearing within six months. The time and place of the hearing shall be fixed by the board, and a copy of the charges, together with a notice of the time and place of the hearing, shall be personally served on or mailed to the last known address of the licensee *no less than twenty (20)* at least thirty days before the date fixed for the hearing.

(2) At any hearing, the accused may appear personally and by counsel, cross-examine witnesses appearing against him and produce evidence and witnesses in his own defense. If five or more members of the board vote in favor of finding the accused guilty, the board shall revoke his license, or suspend the same for such length of time as they may in the exercise of a sound discretion deem to be reasonable. Conduct of the hearing shall be governed by the administrative rules and regulations of the board *promulgated in accordance with this Act,* a copy of which shall be made available to every party scheduled for a hearing.

Section 295. KRS 322.320 is amended to read as follows:

(1) In carrying this chapter into effect the board, under the hand of its chairman and under its seal, may, in cases involving the revocation of a license or practicing or offering to practice without a license, subpoena witnesses and compel their attendance, and require the production of books, papers and documents. Any member may administer oaths to witnesses appearing before the board.

(2) If any person refuses to obey any subpoena so issued, or refuses to testify or produce any books, papers or documents, the board may present *to the court* its petition *for an order requiring obedience in accordance with this Act* to any authority having jurisdiction, setting forth the facts. That authority shall, in a proper case, issue its subpoena to the person, requiring him to attend and testify or produce books, papers and documents considered necessary and pertinent by the board .

(3) Board members shall be held free of any personal liability as a result of board actions.

Section 296. KRS 323.130 is amended to read as follows:

(1) No license shall be revoked or suspended without a hearing *in accordance with this Act.* The board may proceed against a license on its own initiative, on the basis of either information contained in its own records or information obtained through its informal investigation. When a formal complaint verified by affidavit is filed with the board by a responsible citizen or organization, containing allegations that if true would warrant suspension or revocation of a license, the board shall proceed against the licensee within three (3) months.

(2) A written notice stating grounds for possible suspension or revocation of the license, setting forth with reasonable particularity the facts constituting the alleged offense and the time and place of the hearing before the board on the charges, shall be served on the accused not less than twenty (20) days prior to the date of the hearing *in accordance with this Act* either personally or by mailing a copy thereof by certified mail, return receipt requested or by registered mail to the address of the accused last known to the board .

Section 297. KRS 323.140 is amended to read as follows:

(1) The board, or any member thereof, may issue subpoenas to compel the attendance of witnesses and the production of documents, and may administer oaths, take testimony, hear proof and receive exhibits in evidence. In case of disobedience to a subpoena the board may invoke the aid of the Franklin Circuit Court. Any order or subpoena of such court requiring the attendance and testimony of witnesses and the production of documentary evidence may be enforced and shall be valid anywhere in this state.

(2) At any hearing the accused may appear in person or by counsel, produce evidence and witnesses on his own behalf, cross-examine witnesses, and examine such evidence and documents as may be produced against him. The accused shall be entitled, on application to the board, to the issuance of subpoenas to compel the attendance of witnesses on his behalf. The board may also be represented by counsel.

(3) The board shall not be bound by technical rules of evidence, but the order of the board shall be based on competent evidence.

(4) A stenographic record of the proceedings shall be kept, but it shall not be necessary to transcribe shorthand notes unless an appeal is taken from the order.

(5) The board's order shall be in writing and shall be accompanied by findings of fact and conclusions of law .

(3) (6) A copy of an order suspending or revoking a license shall be served upon the licensee *in accordance with this Act* by certified mail, return receipt requested or by registered mail immediately upon entry by the board . Any license that is suspended or revoked shall be surrendered to the board accompanied by the licensee's certificate.

Section 298. KRS 323.145 is amended to read as follows:

(1) Any person whose license is revoked by the board may appeal from the order of revocation by filing in the Franklin Circuit Court a petition for appeal *in accordance with this Act* and a copy of the order of the board within sixty (60) days of the date of entry of the order. He shall make bond for costs. The petition for appeal shall set forth with particularity the grounds upon which the appeal is taken. The licensee shall cause a copy of the petition for appeal to be served upon the secretary of the board .

(2) Within thirty (30) days after service of notice of appeal, or within such further time as the court may allow, the board shall file in the Franklin Circuit Court the original or a certified copy of the entire record of the proceeding under review; but, by stipulation of the parties, the record may be shortened.

(2) (3) The filing of the petition for appeal shall not stay enforcement of the order; but upon motion of appellant the Franklin Circuit Court, in its discretion, may order a stay pending decision of the appeal. If the time for renewal of the license occurs during a stay of enforcement, the board shall grant a renewal upon application properly made and payment of the usual fees.

(4) The Franklin Circuit Court shall set the case for hearing without a jury and dispose of the appeal in a summary manner, being confined to the record made before the board except that new evidence may be introduced as to fraud. The court may hear oral arguments and receive written briefs. The court may affirm or set aside the board's order, or may remand the case to the board for further evidence, but shall be limited in making its decision to determining whether or not:

(a) There is any substantial evidence to support the order; or

(b) The board acted without or in excess of its power; or

(c) The order appealed from was procured by fraud.

(3) (5) Any aggrieved party may secure a review of an adverse judgment of the Franklin Circuit Court under this chapter by appeal to the Court of Appeals. Such appeal shall be taken in the manner provided in the Rules of Civil Procedure.

Section 299. KRS 323A.120 is amended to read as follows:

(1) No license shall be revoked or suspended without *notice and* a hearing *in accordance with this Act*. The board may proceed against a licensee on its own initiative, on the basis of either information contained in its own records or information obtained through its informal investigation. When a formal complaint verified by affidavit is filed with the board by a responsible citizen or organization, containing allegations that if it were true would warrant suspension or revocation of a license, the board shall proceed against the licensee within three months.

(2) A written notice stating grounds for possible suspension or revocation of the license, setting forth with reasonable particularity the facts constituting the alleged offense and the time and place of the hearing before the board on the charges, shall be served on the accused not less than twenty days prior to the date of the hearing, either personally or by mailing a copy thereof by certified mail, return receipt requested or by registered mail to the address of the accused last known to the board.

Section 300. KRS 323A.130 is amended to read as follows:

(1) The board, or any member thereof, may issue subpoenas to compel the attendance of witnesses and the production of documents and may administer oaths, take testimony, hear proof and receive exhibits in evidence *in accordance with this Act.* In case of disobedience to a subpoena the board may invoke the aid of the Franklin Circuit Court. Any order or subpoena of such court requiring the attendance and testimony of witnesses and the production of documentary evidence may be enforced and shall be valid anywhere in the state.

(2) At any hearing the accused may appear in person or by counsel, produce evidence and witnesses on his own behalf, cross-examine witnesses, and examine such evidence and documents as may be produced against him. The accused shall be entitled, on application to the board, to the issuance of subpoenas to compel the attendance of witnesses on his behalf. The board may also be represented by counsel.

(3) The board shall not be bound by technical rules of evidence, but the order of the board shall be based upon competent evidence.

(4) A stenographic record of the proceedings shall be kept, but it shall not be necessary to transcribe shorthand notes unless an appeal is taken from the order.

(5) The board's order shall be in writing and shall be accompanied by findings of fact and conclusions of law.

(3) (6) A copy of an order suspending or revoking a license shall be served upon the licensee *in accordance with this Act* by certified mail, return receipt requested or by registered mail immediately upon entry by the board . Any license that is suspended or revoked shall be surrendered to the board accompanied by the licensee's certificate.

Section 301. KRS 323A.140 is amended to read as follows:

(1) Any person whose license is revoked by the board may appeal from the order of revocation by filing in the Franklin Circuit Court or in the circuit court in the district in which the licensee maintains his business a petition for appeal *in accordance with this Act* and a copy of the order of the board within sixty days of the date of entry of the order. He shall make bond for costs. The petition for appeal shall set forth with particularity the grounds upon which the appeal is taken. The licensee shall cause a copy of the petition for appeal to be served upon the secretary of the board .

(2) Within thirty days after service of notice of appeal, or within such further time as the court may allow, the board shall file in the Franklin Circuit Court or in the circuit court in the district in which the licensee maintains his business the original or a certified copy of the entire record of its proceedings under review; but, by stipulation of the parties the record may be shortened.

(2) (3) The filing of the petition for appeal shall not stay enforcement of the order; but upon motion of appellant the Franklin Circuit Court or the circuit court in the district in which the licensee maintains his business, in its discretion, may order a stay pending decision of the appeal. If the time for renewal of the license occurs during a stay of enforcement, the board shall grant a renewal upon application properly made and payment of the usual fees.

(4) The Franklin Circuit Court or the circuit court in the district in which the licensee maintains his business shall set the case for hearing without a jury and dispose of the appeal de novo.

(3) (5) Any aggrieved party may secure a review of any adverse judgment of the Franklin Circuit Court or the circuit court in the district in which the licensee maintains his business under this chapter by appeal to the Court of Appeals. Such appeal shall be taken in the manner provided in the Rules of Civil Procedure.

Section 302. KRS 324.170 is amended to read as follows:

The commission shall before denying an application for license or before suspending or revoking any license *provide notice and a hearing in accordance with this Act* set the matter down for a hearing and at least twenty (20) days prior to the date set for the hearing it shall notify the applicant or licensee in writing, which said notice shall contain an exact statement of the charges made and the date and place of the hearing. The applicant or licensee in all hearings shall have the opportunity to be heard in person and by counsel in reference thereto. Such written notice may be served by delivery of same personally to the applicant or licensee or by mailing same by certified mail, return receipt requested or by registered mail to the last known business address of such applicant or licensee . If such applicant or licensee be a salesman the commission shall also notify the broker employing him or whose employ he is about to enter by mailing notice by certified mail, return receipt requested or by registered mail to the broker's last known business address. The hearing on such charges shall be at such time and place as the commission shall prescribe .

Section 303. KRS 324.200 is amended to read as follows:

If the commission shall determine that any applicant is not entitled to receive a license, a license shall not be granted to such applicant, and if the commission shall determine that any licensee is guilty of a violation of any of the provisions of this chapter, the license shall be suspended or revoked. The commission , upon request of the applicant or licensee, shall furnish said applicant or licensee with a *final order in accordance with this Act.* definite statement of its findings of facts and its reason or reasons for refusing to grant the license or for suspension of the rights of the licensee, or for the revocation of the license as the case may be. The findings of fact made by the commission acting within its powers shall, in the absence of fraud, be conclusive, but *A* a ny person aggrieved shall have the right of an appeal from the findings of the commission as provided in KRS 324.210.

Section 304. KRS 324.210 is amended to read as follows:

Any party aggrieved by the action of the commission in refusing to grant a license or in suspending or revoking a license may , within ten (10) days after the entry of such order of refusal, revocation or suspension, file in the office of the clerk of the circuit court *proceedings for judicial review in accordance with this Act* of the county in which the action of the commission is applicable, an attested copy of the proceedings before the commission, provided he shall first post a bond to secure the costs of the action in such sum as may be approved by the clerk of the circuit court, with good and solvent surety. The commission shall be a necessary party to all such appeals. The circuit court clerk shall thereupon docket the case as though it were a petition in equity and shall immediately issue a summons for such commission, and said summons shall be returned in the same manner as are summonses in equity cases. No formal pleadings shall be required in such appeals but the case shall be set down by the court for as early a date as possible for a hearing, and after such hearing the court shall enter a judgment sustaining or setting aside the order of the commission . Either party may appeal to the Court of Appeals from the judgment of the circuit court in the same manner as an appeal can be taken from a judgment in *other civil cases* equity cases.

Section 305. KRS 324.281 is amended to read as follows:

(1) There is hereby created the State Real Estate Commission. The Governor shall appoint three persons, each of whom, immediately prior to the date of his appointment has been a resident of the state for five years and whose vocation for a period of at least ten years shall have been that of a real estate broker, or a real estate salesman; one member shall be appointed for a term of one year; one member shall be appointed for a term of two years; one member shall be appointed for a term of three years; and until their successors are appointed and qualify, thereafter the term of the members of said commission shall be for three years and until their successors are appointed and qualify. The Kentucky Association of Realtors shall supply a list of not less than three names to the Governor each year from which appointments are to be made. There shall not be more than two of any one political party serving on the commission at the same time. Members to fill vacancies shall be appointed for the unexpired term.

(2) It shall be the duty of the commission to hold disciplinary hearings *in accordance with this Act* concerning matters in controversy as provided by this chapter; to conduct examinations for applicants eligible under this chapter; to conduct whenever deemed necessary certain educational seminars and courses directed toward continuing education within the real estate field; to investigate or cause to be investigated any irregularities in violation of this chapter or the promulgated and authorized rules and regulations of the commission; to participate with any other agency of the Commonwealth or the authorized agency of another state for the betterment or improvement of the administration of the statutes, rules or regulations governing this commission. Any action taken by the commission under this subsection shall be appealable as are other actions of the commission under this chapter.

Section 306. KRS 325.230 is amended to read as follows:

(1) There is hereby created a state board of accountancy in and for the state of Kentucky. The board shall consist of five (5) members, appointed by the governor. Whenever an appointment is to be made the Kentucky society of certified public accountants shall submit to the governor the names of three (3) persons for each vacancy to be filled. All persons recommended must be qualified for membership on the board, and the governor shall appoint one (1) of the three (3). Members of the board shall be citizens of the United States and residents of this state who hold certified public accountant certificates issued under the laws of this state and who are in active practice as certified public accountants. The members of the board first to be appointed shall hold office, one (1) for one (1) year, one (1) for two (2) years, and one (1) for three (3) years from the effective date of KRS 325.220 to 325.440, the term of each to be designated by the governor. On July 1, 1968, two (2) additional members shall be appointed, one (1) for a one (1) year term and one (1) for a two (2) year term. Succeeding appointments to the board shall be for a term of three (3) years. Vacancies occurring during a term shall be filled by appointment for the unexpired term. Upon the expiration of his term of office a member shall continue to serve until his successor shall have been appointed and shall have qualified. The governor shall remove from the board any member whose permit to practice is not renewed or which has become void, revoked or suspended, and may, after hearing *in accordance with this Act*, remove any member of the board for neglect of duty or other just cause.

(2) Each member of the board shall be paid thirty-five dollars ($35.00) for each day spent in the discharge of his official duties and shall be reimbursed for his actual and necessary expenses therein incurred.

Section 307. KRS 325.360 is amended to read as follows:

(1) The board may initiate proceedings under KRS 325.220 to 325.440 either on its own motion or on the complaint of any person *and such proceedings shall be scheduled and conducted in accordance with this Act.*

(2) A written notice stating with reasonable particularity the nature of the charge and such acts of professional misconduct as are complained of against the accused and the time and place of the hearing before the board on such charges shall be served on the accused not less than *twenty (20)* thirty (30) days prior to the date of the hearing *in accordance with this Act* either personally or by mailing a copy thereof by certified mail, return receipt requested or by registered mail to the address of the accused last known to the board .

(3) If, after having been served with the notice of hearing as provided for herein, the accused fails to appear at said hearing, the board may hear evidence against him and may enter such order as shall be justified by the evidence, which order shall be final unless he petitions for a review thereof as provided herein: Provided, however, That within thirty (30) days from the date of any order, upon a showing of good cause for failing to appear, the board may reopen said proceedings and may permit the accused to submit evidence in his behalf.

(4) At any hearing the accused may appear in person or by counsel, produce evidence and witnesses on his own behalf, cross-examine witnesses, and examine such evidence and documents as may be produced against him. The accused shall be entitled, on application to the board, to the issuance of subpoenas to compel the attendance of witnesses on his behalf.

(5) The board, or any member thereof, may issue subpoenas to compel the attendance of witnesses and the production of documents, and may administer oaths, take testimony, hear proof and receive exhibits in evidence in connection with or at the hearing under KRS 325.220 to 325.440. In case of disobedience to a subpoena the board may invoke the aid of the Franklin Circuit Court. Any order or subpoena of such court requiring the attendance and testimony of witnesses and the production of documentary evidence may be enforced and shall be valid anywhere in this state.

(6) The board shall not be bound by technical rules of evidence.

(6) (7) A stenographic record of the hearing shall be kept *in accordance with this Act* and a transcript thereof filed with the board .

(7) (8) At all hearings the attorney general of this state, or one (1) of his assistants designated by him shall appear and represent the board.

(8) (9) The decision of the board shall be by majority vote thereof.

(9) (10) Any person adversely affected by any order of the board may obtain a review thereof by filing a written petition for review with the Franklin Circuit Court *in accordance with this Act* within sixty (60) days after the entry of said order. The petition shall state the grounds upon which the review is asked and shall pray that the order of the board be modified or set aside in whole or in part. A copy of such petition shall be forthwith served upon any member of the board and thereupon the board shall certify and file in the court a transcript of the record upon which the order complained of was entered. The case shall then be tried de novo on the record but the parties shall be permitted to file briefs. The court may affirm, modify or set aside the board's order in whole or in part, or may remand the case to the board for further evidence, and may in its discretion, stay the effect of the board's order pending its determination of the case . The court's order shall have the force and effect of a decree in equity and may be appealed from to the Court of Appeals *as in other civil cases.*

Section 308. KRS 326.100 is amended to read as follows:

No license shall be suspended or revoked until after *notice and* a hearing *in accordance with this Act* before the board upon notice to the license holder of at least ten (10) days. The notice shall be served either personally or by registered mail or certified mail, return receipt requested and shall state the date and place of the hearing and set forth the ground or grounds constituting the charges against the license holder. The license holder shall be heard in his defense either in person or by counsel and may produce witnesses and testify in his own behalf .

Section 309. KRS 326.110 is amended to read as follows:

A licensee, whose license has been suspended or revoked by the board, may appeal from the suspension or revocation order within thirty (30) days of such order to the circuit court in *accordance with this Act* the county in which the licensee is practicing. The procedure shall be the same as in a civil appeal from a county court to a circuit court. The trial in the circuit court shall be de novo, and an appeal may be taken by either side to the Court of Appeals as in a civil action. The judgment or order of the board, suspending or revoking the license, shall be stayed, pending a final adjudication by the courts.

Section 310. KRS 327.070 is amended to read as follows:

The board, after due notice and hearing *in accordance with this Act* may refuse to license any applicant, and may refuse to renew the license of any licensed person, and may suspend or revoke the license of any licensed person:

(1) Who indulges in excessive use of alcoholic beverages or who is addicted to the use of narcotic drugs;

(2) Who has been convicted of violating any state or federal narcotic law;

(3) Who is, in the judgment of the board, guilty of immoral or unprofessional conduct;

(4) Who has been convicted of a felony or any crime involving moral turpitude;

(5) Who has obtained or attempted to obtain a license by fraud or material misrepresentation or who has made any other false statement to the board.

(6) Who is guilty, in the judgment of the board, of gross negligence in his practice of physical therapy;

(7) Who has been declared mentally incompetent by a court of competent jurisdiction and has not thereafter been declared lawfully sane;

(8) Who has treated or undertaken to treat human ailments otherwise than by physical therapy as defined in this chapter, or who has undertaken to practice independent of the prescription, direction or supervision of a licensed medical doctor or dentist.

(9) Who has failed or refused to obey any lawful order or regulation of the board.

Section 311. KRS 327.090 is amended to read as follows:

Any person aggrieved by an order of the board denying, suspending or revoking his license may appeal to the Franklin Circuit Court *in accordance with this Act* within thirty (30) days after entry of said order, for appropriate relief. On such appeal the scope of review shall be limited to an examination of the record of the board's action for the purpose of determining whether the board abused its discretion. It shall be the duty of the appellant to furnish the court with a properly certified transcript of any evidence heard by the board, and the court may refuse to review any findings of fact made by the board unless such a transcript is filed within sixty (60) days after the filing of the appeal .

Section 312. KRS 328.080 is amended to read as follows:

(1) The board may revoke a certificate of registration upon the failure of the holder thereof to pay the annual renewal fee, upon giving said holder thirty (30) days' notice in writing of such proposed revocation. Notice shall be sufficient when sent by certified mail, return receipt requested or by registered mail to the last known address of the holder.

(2) The board may revoke a certificate of registration obtained through error of the board or fraud on the part of the applicant, or if the holder is grossly incompetent, guilty of immoral or unethical conduct, or obtained or sought to obtain anything of value by fraudulent representations in the practice of watchmaking. The holder of such certificate shall be given thirty (30) days' notice in writing enumerating the charges and specifying a date for the hearing on such charges *in accordance with this Act.* At the hearing he shall have the opportunity to confront witnesses against him and to produce evidence bearing on such charges. A stenographic record of all proceedings shall be made and transcript kept on file with the board. Any aggrieved holder may appeal to the Franklin Circuit Court on the board's ruling *in accordance with this Act* within fifteen (15) days from entry of the order of revocation .

(3) One whose certificate has been revoked, may, upon the expiration of one (1) year after such revocation, apply to the board for registration and upon satisfactory proof that the cause of revocation no longer exists, the board may, in its discretion, issue to said person a certificate of registration upon payment of the fees herein provided.

(4) "Unethical conduct" as used in this chapter shall include and mean any conduct of a character likely to mislead, deceive or defraud the public; advertising of any character in which untruthful or misleading statements are made; advertising of prices on watch repairing or the giving of watch glasses, crystals or of any other watch parts, gratis or at less than cost, in order to advertise or increase watch repair business; performance of any service in pursuance of any such advertising; loaning of a certificate of registration to any person; failure to display the certificate of registration conspicuously at all times; representation that a watch has been cleaned although its major parts, train wheels and mainspring have not been disassembled and the capped jewels removed and all parts properly cleaned; performance of any work upon a watch in an unworkmanlike or unskilled manner; representation that certain services or parts are necessary or have been or will be used in the repair of a watch, although such services or parts are not necessary and have not been used in such repairs; employing directly or indirectly, any unregistered watchmaker to perform any watchmaking; or noncompliance, within thirty (30) days, with the directions given in a written notice from any provision of this chapter.

Section 313. KRS 329.080 is amended to read as follows:

Any unlawful act or violation of any of the provisions of this chapter, upon the part of any examiner or trainee shall not be cause for revocation of the license of any other examiner for whom the offending examiner may have been employed, unless it shall appear to the satisfaction of the department *after notice and hearing in accordance with this Act* that the examiner has wilfully aided or abetted the actions or activities of the offending examiner or trainee.

Section 314. KRS 329.100 is amended to read as follows:

The department may upon its own motion and shall upon the verified complaint in writing of any person setting forth facts which if proved would constitute grounds for denial, suspension or revocation of a license under this chapter, investigate the actions of any applicant or any person holding or claiming to hold a license. The department shall, before denial, suspension or revocation of a license, *give notice and provide for a* *hearing in accordance with this Act* at least ten (10) days prior to the date set for the hearing, notify in writing the applicant or holder of a license of the nature of the charges and that a hearing will be held on the date designated . The hearing shall determine whether the applicant or holder, called the respondent in this section and KRS 329.110, is privileged to hold such license , and shall afford the respondent an opportunity to be heard in person or by counsel in reference thereto . Such written notice may be served by personal delivery to the respondent or by mailing the same by registered or certified mail with return receipt requested to the place of business last specified by the respondent on the records of the department. At the time and place fixed in the notice, the commissioner shall proceed to hear the charges, and both the respondent and complainant shall be accorded ample opportunity to present in person or by counsel such statements, testimony, evidence and argument as may be pertinent to the charges or to the defense thereto. The commissioner may continue such hearing from time to time. If the commissioner shall not be sitting at the time and place fixed in the notice or at the time and place to which the hearing shall have been continued, the commissioner shall continue such hearing for a period not to exceed thirty (30) days.

Section 315. KRS 329.110 is amended to read as follows:

(1) The department, at its expense, shall provide a stenographer to take down the testimony and preserve a record of all proceedings at the hearing of any case involving the denial, suspension or revocation of a license. The notice of hearing, complaint and all other documents in the nature of pleadings and written motions filed in the proceedings, the transcript of testimony, the report of the commissioner and orders of the department shall be the records of such proceedings. The department shall furnish a transcript of such record to any person *not a party as defined in this Act who is* interested in such hearing upon the payment therefor of seventy-five cents (75¢) per page for each original transcript and twenty-five cents (25¢) per page for each carbon copy thereof ordered with the original; Provided, however, the charge for any part of such transcript ordered and paid for previous to the writing of the original record therefor shall be twenty-five cents (25¢) per page.

(2) In any case involving the denial, suspension or revocation of a license, a copy of the commissioner's report shall be served upon the respondent by the department *in accordance with this Act* , either personally or by registered or certified mail as provided in KRS 329.100 for the service of the notice of hearing . Within twenty (20) days after such service, the respondent may present to the department a motion in writing for a rehearing, which written motion shall specify the particular grounds therefor. If no motion for rehearing is filed, then upon the expiration of the time specified for filing such a motion, or if a motion for rehearing is denied, then upon such denial, the secretary may enter an order in accordance with *this Act and pursuant to the* recommendations of the department. If the respondent shall *receive* order and pay for a transcript of the record within the time for filing a motion for rehearing, the twenty (20) day period within which such a motion may be filed shall commence upon the delivery of the transcript to the respondent.

Section 316. KRS 329.120 is amended to read as follows:

Any circuit court *of a district in which an adjudicatory proceeding is being held in accordance with this Act*, either in term time or vacation, may, upon application of the secretary or of the applicant or licensee against whom proceedings upon KRS 329.100 are pending, enter an order requiring *obedience to any subpoena issued pursuant to this Act for* the attendance of witnesses and their testimony, and the production of documents, papers, files, books and records in connection with any hearing in any proceedings under KRS 329.100.

Section 317. KRS 330.130 is amended to read as follows:

Before denying an application for license or before suspending or revoking any license, the board shall *provide notice and a hearing in accordance with this Act* set the matter down for a hearing, and at least twenty (20) days prior to the date for the hearing it shall notify the applicant or licensee in writing. The notice shall contain an exact statement of the charges made and the date and place of the hearing. The licensee or applicant at all hearings shall have the opportunity to be heard in person and by counsel. Written notice may be served by delivery of the notice personally to the applicant or licensee or by mailing the notice by certified mail, return receipt requested or by registered mail to the last known business address of such applicant or licensee . If such applicant or licensee is an apprentice auctioneer, the board shall also notify the auctioneer employing him or whose employ he is about to enter , by mailing notice by certified mail, return receipt requested or by registered mail to the auctioneer's last known business address. The hearing on such charges shall be at such time and place as the board shall prescribe .

Section 318. KRS 330.140 is amended to read as follows:

(1) In the preparation and conduct of hearings, the board shall have power to require by subpoena the attendance and testimony of witnesses and the production of papers, and any member of the board may sign subpoenas, administer oaths and affirmations, examine witnesses and receive evidence. The fees and mileage

allowance paid to witnesses shall be the same as prescribed by law in judicial procedure in the courts of this commonwealth in civil cases. Any party to any hearing before the board shall have the right to the attendance of witnesses in his behalf at such hearing upon making a request thereof to the board and designating the person or persons sought to be subpoenaed.

(2) Testimony may be taken by deposition as in civil cases, and any person may be compelled to appear and depose in the same manner as witnesses may be compelled to appear and testify as hereinbefore provided.

(3) In case of disobedience to the subpoena, any member of the board may invoke the aid of any court of competent jurisdiction in requiring the attendance and testimony of witnesses and the production of papers; and such court may issue an order requiring the persons to appear before the board and give evidence and to produce papers as the case may be. Any failure to obey such order of the court may be punished by the court as contempt.

(4) All hearings by the board shall be scheduled and conducted in accordance with this Act.

Section 319. KRS 330.150 is amended to read as follows:

If the board determines that an applicant is not entitled to receive a license, a license shall not be granted to such applicant, and if the board determines that any licensee is guilty of a violation of any of the provisions of this chapter, his license shall be suspended or revoked. The board , upon request of the applicant or licensee, shall furnish the applicant or licensee with a *final order in accordance with this Act.* definite statement of its findings of facts and its reason or reasons for refusing to grant the license or for suspension of the rights of the licensee, or for the revocation of the license, as the case may be. The findings of fact made by the board acting within its powers shall, in the absence of fraud, be conclusive, but *A* a ny person aggrieved shall have the right of an appeal from the findings of the board *in accordance with this Act.*

Section 320. KRS 330.160 is amended to read as follows:

Any party aggrieved by the action of the board in refusing to grant a license or in suspending or revoking a license may , within ten (10) days after the entry of such order of refusal, revocation or suspension, file in the office of the clerk of the circuit court *a petition for judicial review in accordance with this Act* of the county in which the office of the board is located, an attested copy of the proceedings before the board, provided he shall first post a bond to secure the costs of the action in such sum as may be approved by the clerk of the circuit court, with good and solvent surety. The board shall be a necessary party to all such appeals. The circuit court clerk shall thereupon docket the case and shall immediately issue a summons for the board. No formal pleadings shall be required in such appeals but the case shall be set down by the court for as early a date as possible for a hearing, and after the hearing the court shall enter a judgment sustaining or setting aside the order of the board . Either party may appeal to the Court of Appeals from the judgment of the circuit court *as in other civil cases.*

Section 321. KRS 331.090 is amended to read as follows:

(1) The board may suspend or revoke a license or may refuse to renew a license only after *notice and* a hearing *in accordance with this Act* of which the holder of the license has been given adequate notice by mailing a copy of the notice by certified or registered mail at least twenty (20) days prior to the hearing. At the hearing, the board and the holder of the license shall have the benefit of counsel .

(2) The board may administer oaths, take the depositions of witnesses as in civil cases and compel them to attend before it in person as in civil cases by subpoena issued in the name of the commonwealth and over the signature of the president of the board.

(3) Proceedings for the suspension or revocation of a license may be instituted by any individual or organization filing a verified complaint with the secretary of the board or such proceedings may be instituted by the board acting upon its own initiative or by the president or secretary of the board acting on behalf of the board.

(4) The board may institute in its own name proceedings to restrain and enjoin temporarily or permanently violations of this chapter regardless of whether the defendant has been convicted for violations of the penal provisions of this chapter, and the board shall not be required to pay any costs or filing fee or furnish any bond in connection therewith.

(5) Hearings held by the board under subsection (1) of this section shall be held in the county where the holder of the license lives or operates an independent business school.

Section 322. KRS 331.100 is amended to read as follows:

(1) County and commonwealth's attorneys and the attorney general within their respective jurisdictions shall prosecute all violations of the penal provisions of this chapter and shall, when requested by the board, represent the board in matters relating to the enforcement of this chapter.

(2) A licensee whose license has been revoked or suspended by the board or who has been refused a renewal license may , within thirty (30) days of the entry of the order, appeal to the circuit court *in accordance with this Act.* of the county in which the hearing was held. The person taking the appeal shall serve upon the secretary of the board, by certified or registered mail, a written notice of appeal and shall file with the clerk of the circuit court to which such appeal is taken an appeal bond with good and sufficient surety, to be approved by the clerk, conditioned for the speedy prosecution of the appeal and the payment of any costs charged against him upon the appeal. The board, within ten (10) days after the service of notice of appeal and the filing and approval of the bond, shall transmit to the clerk of the court a certified copy under the seal of the board of the evidence upon which the ruling of the board was based. The clerk shall then docket the case and it shall be tried in all respects like an ordinary civil action. Either party may appeal from the judgment of the circuit court to the Court of Appeals as in a civil action. The order appealed from shall be stayed from the date of the approval of the bond until the final determination of the appeal.

Section 323. KRS 332.070 is amended to read as follows:
Any person whose license to conduct a driver training school or any person whose license to give instructions in such schools has been suspended or revoked or the issue or renewal thereof is refused, may request a hearing for reinstatement or renewal of the license. Such request shall be in writing addressed to the secretary who shall *give notice and* conduct a hearing thereon *in accordance with this Act* as soon as possible . The secretary shall have the power to subpoena witnesses and take testimony of any person or cause his deposition to be taken. If such request is denied, such person may appeal from the decision of the secretary in the Franklin Circuit Court *in accordance with this Act.*

Section 324. KRS 333.200 is amended to read as follows:
(1) In every proceeding for suspension or revocation of a license, the department shall furnish the medical laboratory director with written notice *and hearing in accordance with this Act* setting out the substance of each offense charged, with sufficient detail to reasonably apprise him of the nature, time and place thereof. Hearings may be conducted by a hearing officer of the department, except as herein provided, no hearing shall be conducted until at least twenty (20) days written notice thereof has been given to the medical laboratory director, who shall have the right to be present, in person or by counsel, and to present evidence and to be heard in opposition to the charges . However, a license may be temporarily suspended without a hearing for a period not in excess of twenty (20) days upon notice to the medical laboratory director following a finding by the department that the public health, safety, or welfare is in imminent danger.

(2) Except as otherwise provided in this subsection, every order of the department suspending or revoking a license shall become effective thirty (30) days after notice is given to the medical laboratory director, unless such director within thirty (30) days from the giving of such notice, appeals therefrom in the manner provided by subsection (3) of this section. Provided, however, That the department may, when in its opinion the continued operation of the medical laboratory during the time allowed for appeal would be dangerous to the health, welfare, and safety of the public, provide in its order of suspension or revocation that said order shall become effective forthwith; in such event the department's order of suspension or revocation shall become effective as of the date specified therein, and the medical laboratory shall not, after notice of same, continue to operate under the license after such revocation or during such period of suspension, unless and until the department order is reversed or modified by a final and unappealable order or judgment of a court made pursuant to the provisions of subsection (3) of this section.

(3) Any medical laboratory which is aggrieved by an order of the department placing it on probation, or suspending or revoking its license may procure a declaration of rights under the declaratory judgment act by filing, within thirty (30) days after notice of said order, a complaint against the department in the circuit court of Franklin County, Kentucky, together with a bond with good and sufficient sureties thereon to cover all costs, which petition *for* shall request judicial review of the department's order and proceedings held by the department, or its hearing *examiner, in accordance with this Act.* officer, and set out with particularity the grounds relied upon for reversal or modification of the order. No new or additional evidence shall be introduced in the circuit court. In the event the action of the department is not sustained the court may, upon request of the board, remand the case to the board for further proceedings. Any party aggrieved by the final judgment, order or decree rendered in the case by the Franklin Circuit Court may appeal therefrom to the Court of Appeals of Kentucky in the time, method and manner provided *for other civil cases* in the declaratory judgment act .

(4) Any notice that is required to be given to a medical laboratory by the department, or by its hearing officer, which is given by forwarding same by registered United States mail, postage prepaid, to the medical laboratory director at his last known address as it appears in the files of the department of health, shall be sufficient.

(4) (5) The department or its hearing *examiner* officer shall have authority to administer oaths and to issue complaints, notices, summonses, subpoenas and other process, in connection with any charge,

proceeding or hearing relating to suspension or revocation under this chapter.

Section 325. KRS 334.120 is amended to read as follows:

(1) Any person wishing to make a complaint against a licensee under this chapter shall reduce the same to writing and file this complaint with the board within one (1) year from the date of the action upon which the complaint is based. If the board determines the charges made in the complaint are sufficient to warrant a hearing to determine whether the license issued under this chapter shall be suspended or revoked, it shall *give notice and* make an order fixing a time and place for a hearing *in accordance with this Act* and require the licensee complained against to appear and defend against the complaint. The *notice* order shall have annexed thereto a copy of the complaint. The order and copy of the complaint shall be served upon the licensee at least twenty (20) days before the date set for hearing at the last known address. Continuances or adjournment of hearing date shall be made if for good cause.

(2) Any person registered under this chapter may have his license revoked or suspended for a fixed period by the board for any of the following causes:

(a) The conviction of a felony, or a misdemeanor involving moral turpitude. The record of conviction, or a copy thereof, certified by the clerk of the court or by the judge in whose court the conviction is had, shall be conclusive evidence of such conviction.

(b) Procuring of license by fraud or deceit practiced upon the board.

(c) Unethical conduct, including:

1. The obtaining of any fee or the making of any sale by fraud or misrepresentation;

2. Employing directly or indirectly any suspended or unregistered person to perform any work covered by this chapter;

3. Using or causing or promoting the use of any advertising matter, promotional literature, testimonial, guarantee, warranty, label, brand, insignia, or any other representation, however disseminated or published, which is misleading, deceptive or untruthful;

4. Advertising a particular model or type of hearing aid for sale when purchasers or prospective purchasers responding to the advertisement cannot purchase the advertised model or type, where it is established that the purpose of the advertisement is to obtain prospects for the sale of a different model or type than that advertised;

5. Representing that the service or advice of a person licensed to practice medicine will be used or made available in the selection, fitting, adjustment, maintenance or repair of hearing aids when that is not true, or using the words "doctor," "clinic," "clinical audiologist," or "state licensed," "state approved" or similar words, abbreviations or symbols which give the impression that service is being provided by persons trained in medicine or audiology, or that the licensee's service is state recommended when such use is not accurate;

6. Habitual intemperance;

7. Gross immorality;

8. Permitting another's use of a license;

9. Advertising a manufacturer's product or using a manufacturer's name or trade-mark which implies a relationship with the manufacturer that does not exist; or

10. Directly or indirectly giving or offering to give, or permitting or causing to be given money or anything of value to any person who advises another in a professional capacity as an inducement to influence him or have him influence others to purchase or contract to purchase products sold or offered for sale by a hearing aid dealer or fitter, or influencing persons to refrain from dealing in the products of competitors.

(d) Conducting business while suffering from a contagious or infectious disease.

(e) Engaging in the fitting and sale of hearing aids under a false name, or alias.

(f) Selling a hearing aid to a person who has not been given tests utilizing appropriate established procedures and instrumentation in fitting of hearing aids.

(g) Gross incompetence or negligence in fitting and selling hearing aids.

(h) Advertising professional methods or professional superiority.

(i) Violating any provisions of this chapter.

Section 326. KRS 334.180 is amended to read as follows:

A certificate holder or applicant aggrieved by an order of the board refusing, suspending or revoking a license or certificate of endorsement may within thirty (30) days after notice thereof appeal thereupon to the circuit court *in accordance with this Act* of the county in which the certificate holder or applicant conducts his practice or has his place of business or resides. The appeal shall be determined by the court upon the certified record and no new or additional evidence shall be heard or considered by the court . Either party aggrieved by a final order entered by the circuit court may appeal to the Court of Appeals as in a civil action.

Section 327. KRS 334A.180 is amended to read as follows:

(1) The board may refuse to issue a license, or may suspend or revoke the license of any licensee if he has been guilty of unprofessional conduct which has endangered or is likely to endanger the health, welfare, or safety of the public. Such unprofessional conduct may include:

(a) Obtained his license by means of fraud, misrepresentation, or concealment of material facts;

(b) Has been guilty of unprofessional conduct as defined by the rules established by the board, or has violated the code of ethics adopted and published by the board;

(c) Has violated any lawful order, rule, or regulation rendered or adopted by the board; or

(d) Has violated any provisions of this chapter.

(2) The board shall deny an application for, or suspend or revoke, or impose probationary conditions upon, a license as ordered by the board in any decision made after *notice and* hearing *in accordance with this Act* as provided in this chapter. One year from the date of revocation of a license under this chapter, application may be made to the board for reinstatement. The board shall have discretion to accept or reject an application for reinstatement and may require an examination for such reinstatement.

(3) A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge of a felony or of any offense involving moral turpitude is deemed to be a conviction within the meaning of this chapter. At the direction of the board *and after notice and hearing prescribed in subsection (2),* the license shall be suspended or revoked, or shall decline to issue a license when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence irrespective of a subsequent order under the provisions of the penal code allowing such person to withdraw his plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the acquisition, information or indictment.

Section 328. KRS 335.070 is amended to read as follows:

(1) The board shall administer and enforce the provisions of KRS 335.010 to 335.160 and 335.990, and may adopt rules and regulations consistent with its provisions, including a code of ethical practice for Certified Social Workers and Social Workers.

(2) The board shall review and act upon applications for licensure at least twice each year, and shall regulate the renewal of licenses.

(3) The board may conduct hearings on charges calling for the denial, revocation or suspension of a license, shall adopt rules for the conduct of the hearings *in accordance with this Act,* and shall cause the prosecution of all persons who violate any provisions of KRS 335.010 to 335.160 and 335.990, or any rule or regulation promulgated pursuant to its provisions.

(4) The board may sue and be sued in its own name.

(5) The board may employ any other persons it deems necessary to carry on the work of the board, and shall define their duties and fix their compensation.

(6) The board shall maintain a register of Certified Social Workers, Social Workers, and licensees certified for private practice. The register shall be a public record.

(7) The board shall keep a complete record of all of its proceedings.

Section 329. KRS 335.150 is amended to read as follows:

(1) The board may hear grievances of persons whose applications for a license have been denied.

(1) (2) The board may deny, revoke, or suspend any license upon proof that the person has willfully or repeatedly violated any of the provisions of KRS 335.010 to 335.160 and 335.990 or any rule or regulation promulgated by the board.

(2) (3) The board shall not *deny,* suspend, revoke or refuse to renew a license except after a *notice and* hearing held before the board upon notice to the person charged *in accordance with this Act* *upon notice to the person charged* .

(4) The notice shall be in writing, shall state the nature of the charges, the time and place of the hearing, and shall be served on the person charged by registered mail not less than thirty (30) days prior to the date of the hearing.

(5) The person charged may appear in person or by counsel, may testify and may produce evidence and witnesses on his own behalf, may cross examine witnesses, and shall be entitled, on application to the board, to the issuance of subpoenas to compel the attendance of witnesses and the production of documentary evidence.

(6) The board, or its duly authorized representative on its behalf, shall have authority to issue subpoenas to compel the attendance of witnesses and the production of documents and may administer oath. The board may invoke the aid of the circuit court for the county in which the hearing is held to enforce compliance with its subpoenas.

(7) A stenographic or mechanical record of the hearing shall be taken, and a transcript shall be preserved by the board.

(3) (8) At all hearings before the board the attorney general of the commonwealth, or one of his assistants designated by him shall appear and represent the board.

(4) (9) The decision of the board shall be by majority vote thereof.

(10) A copy of the board's order shall be sent by registered mail to the person charged at his last known address.

(5) (11) The board may grant a rehearing when new and material evidence is offered for its consideration.

(6) (12) Any person aggrieved by a final order of the board may within thirty (30) days of the entry of the order, appeal to the circuit court *in accordance with this Act* for the county in which he resides. The appeal shall be determined by the court upon the certified record and no new or additional evidence shall be heard or considered by the court . An appeal may be taken from the judgment of the circuit court on any such appeal to the Court of Appeals in accordance with the Rules of Civil Procedure.

Section 330. KRS 336.550 is amended to read as follows:

A certificate to serve as an inspector may be suspended or revoked *after notice and hearing in accordance with this Act* by the chief of the division of elevator inspection for the incompetence or untrustworthiness of the holder thereof, or for the falsification of any matter or statement contained in his application or in a report of any inspection.

Section 331. KRS 336.610 is amended to read as follows:

(1) Every inspector shall forward to the division of elevator inspection a full report of each inspection made of any elevator, showing the exact condition of the said elevator, and said inspector shall leave a copy of said report at the elevator on the day the inspection is completed.

(2) If any elevator requires certain changes or repairs to make it reasonably safe to operate, such recommendations shall be made by the inspector upon his report and a copy of such report as approved by the chief of the division of elevator inspection shall be given to the owner or operator of such elevator, and unless appealed, upon compliance therewith, and upon the payment of the fees required by law, the chief shall issue a certificate of operation for a capacity not to exceed that named in the said report of inspection, which certificate shall be valid for one year after the date of inspection.

(3) If construction plans or an application of specifications is not approved, the chief shall state in writing the necessary changes to obtain approval and the owner or operator shall be given a copy thereof, and unless appealed, upon compliance therewith, the chief shall approve such plans or specifications and issue a permit for construction.

(4) Such owner or operator, within twenty days from receipt of the copy of such report or statement of changes in plans or specifications, may make written application to the division, upon forms to be furnished by the division for a hearing *as provided in this Act* on the report or the statement regarding changes in plans or specifications as to whether the elevator in question is reasonably safe, or whether the elevator if constructed in accordance with such plans and specifications would be reasonably safe. The division shall promptly consider such application and *conduct* proceedings consistent with the provisions of this section.

(5) If it appears from the evidence that said elevator will be reasonably safe to operate without such changes or repairs as shown in such report or by making only a part or all thereof, or if none or only a part of all the changes in the plans or specifications are found necessary to make the elevator reasonably safe, the division shall make its finding and order accordingly. If such finding and order requires changes or repairs to be made in the elevator or changes in the plans or specifications, the chief shall upon the payment of the required fees, issue a certificate of operation when such order has been executed, or issue his approval of the plans or specifications. If the finding and order of the division has been affirmed or modified by appeal, on the grounds of reasonable safety considered by the division, then the chief shall, upon compliance with such order, and the payment of required fees, issue such certificate of operation or issue his approval of the plans and specifications but, if such finding and order of the division has been vacated such certificate of operation, upon the payment of fees or such approval of plans and specifications shall be issued forthwith. No elevator shall be operated after being inspected without having such certificate of operation conspicuously posted thereon, except pending a hearing on the issuance thereof.

Section 332. KRS 337.522 is amended to read as follows:

(1) The commissioner or his authorized representative shall conduct a public hearing for the purpose of making initial determinations, or current revisions thereof, of a prevailing wage schedule for the construction of public works pertaining to a locality. The commissioner shall within 90 days of the receipt of the transcript of a hearing publish his wage determination. Such a hearing shall be conducted in the locality after notice has been given as provided in subsection (3) of this section.

(2) A public authority or any interested person may request and shall be granted an additional hearing solely for the purpose of having considered a review of the commissioner's determination of the prevailing

wage schedule for the construction of public works in the locality; after notice has been given as provided in subsection (3) of this section, such hearing shall be *scheduled and* conducted in the locality *in accordance with this Act* by a prevailing wage review board consisting of one member representing employers in the construction industry, one member representing labor in the construction industry, and one member appointed by the public authority requesting the hearing. The member appointed by the public authority shall reside in the locality wherein the public works are to be constructed. The members of the board representing employers in the construction industry and labor in the construction industry shall be appointed for periods of not more than four years by the governor from a list of prospective members recommended by bona fide associations representing the construction industry and bona fide labor organizations representing workers employed in the construction industry, and such members shall serve on the board for all hearings during their tenure. Prevailing wage review boards shall have the authority to revise prevailing wage schedules for the construction of public works, however, such revisions shall be governed by the same criteria and regulations governing wage determinations of the commissioner. A revision of a prevailing wage schedule for the construction of public works shall require a vote of a majority of the members. The members of a prevailing wage review board shall receive their actual necessary expenses incurred in carrying out their duties and such expenses shall be paid out of the general fund of the commonwealth of Kentucky.

(3) Notice of hearings as required in subsections (1) and (2) of this section shall be given *in accordance with this Act and also* by advertising one time in the newspaper having the largest circulation in the locality, and such advertisement shall be run not less than ten nor more than twenty days prior to the date of the hearing. The advertisement shall set forth all pertinent information of the hearing regarding the time, place, and purpose of the hearing.

Section 333. KRS 338.071 is amended to read as follows:

(1) There is hereby established the Kentucky Occupational Safety and Health Review Commission consisting of three members appointed by the Governor on the basis of their experience and competence in the fields of occupational safety and health. The members selected shall be qualified to represent the interest of employers, employes, and the occupational safety and health profession with a minimum of five years experience in their respective fields.

(2) Members of the review commission shall serve terms of four years and until their successors are appointed.

(3) The review commission shall hold monthly meetings and additional meetings as deemed necessary. A majority of the review commission constitutes a quorum for the transaction of business. Special meetings of the review commission may be called upon reasonable notice by the commissioner or by any two members of the commission.

(4) The review commission shall hear and rule on appeals from citations, notifications, and variances issued under the provisions of this chapter and adopt and promulgate rules and regulations with respect to the procedural aspect of its hearings *in accordance with this Act.*

(5) The review commission shall have the authority to employ a secretary, hearing *examiners appointed and qualified pursuant to this Act* officers , and other employes as may become necessary.

(6) The chairman of the commission and each of the other two members shall be paid a salary fixed under KRS 64.640.

(7) The secretary of the commission shall be paid a salary to be fixed by the commission, with the approval of the Governor. The commission shall fix the compensation of all its other employes.

(8) The commissioners and the secretary and employes of the commission are entitled to all necessary expenses incurred in traveling on business of the commission.

Section 334. KRS 338.081 is amended to read as follows:

(1) Hearings authorized by the provisions of this chapter may be conducted by a hearing *examiner* officer appointed by the review commission to serve in its place. Said hearing *examiner* officer may be a full-time employe, serve by contract, or be paid on a per diem basis at the discretion of the review commission *and shall be qualified in accordance with this Act.*

(2) In the conduct of these hearings, the review commission or hearing *examiner* officer may subpoena and examine witnesses, require the production of evidence, administer oaths, and take testimony and depositions.

(3) After hearing an appeal *in accordance with this Act,* the review commission may sustain, modify or dismiss a citation or penalty.

Section 335. KRS 338.091 is amended to read as follows:

(1) Any party adversely affected or aggrieved by a final order of the review commission may appeal within thirty days to the Franklin Circuit Court on the record for a review of such order *in accordance with this Act.* No new evidence may be introduced in the Circuit Court. An appeal may be taken to the

Court of Appeals from any decision of the Circuit Court under this section.

(2) The commencement of proceedings under this section shall not, unless ordered by the court, operate as a stay of an order of the review commission.

Section 336. KRS 338.101 is amended to read as follows:

(1) In order to carry out the purposes of this chapter, the commissioner, or his authorized representative shall have the authority:

(a) To enter without delay and advance notice any place of employment during regular working hours and at other reasonable times in order to inspect such places, question privately any such employer, owner, operator, agent, employe, or employe's representative, and investigate such facts, conditions, practices, or matters deemed appropriate to determine the cause of, or to prevent the occurrence of, any occupational injury or illness.

(b) To administer oaths, take depositions, conduct hearings *in accordance with this Act,* take photographs, review any and all accident and illness records, and secure any other evidence deemed necessary to evaluate any occupational safety and health hazard in order to ascertain whether any person has violated any provision of this chapter or regulations issued pursuant thereto.

(2) If an employer refuses such entry, then the commissioner may apply to the Franklin Circuit Court for an order to enforce the right of entry.

Section 337. KRS 338.141 is amended to read as follows:

(1) If upon inspection an authorized representative of the commissioner finds that an employer has violated any requirement of this chapter, a citation shall be issued to the employer. Each citation shall describe the alleged violation, establish the time period permitted for correction by fixing a reasonable date by which the alleged violation shall be eliminated, and propose the civil penalty to be paid. If within fifteen (15) working days from the receipt of the citation an employer, employe or representative of the employes fails to notify the commissioner that he intends to contest the citation, then the citation shall be deemed a final order of the review commission and not be subject to review by any court or agency.

(2) The commissioner, upon determination that an employer is acting in good faith to correct the cited violation, may grant additional time for compliance upon application by the employer.

(3) If an employer, employe or representative of the employes notifies the commissioner that he intends to challenge a citation issued under this section or under KRS 338.131, the commissioner shall notify the review commission of such notification and the review commission shall afford an opportunity for a hearing *in accordance with this Act.*

(4) In the case of any review proceedings initiated by an employer, employe or representative of the employes under this chapter, the time period permitted for correction of cited violations may be extended by the review commission.

Section 338. KRS 338.153 is amended to read as follows:

(1) Any affected employer may apply to the commissioner of labor for a rule or order for a variance from a standard promulgated under this chapter. Affected employes shall be given notice of each such application and an opportunity to participate in a hearing. The commissioner shall issue such rule or order if he determines on the record, after *notice and* opportunity for an inspection where appropriate and a hearing *in accordance with this Act,* that the proponent of the variance has demonstrated by a preponderance of the evidence that the conditions, practices, means, methods, operations, or processes used or proposed to be used by an employer will provide employment and places of employment to his employes which are as safe and healthful as those which would prevail if he complied with the standard. The rule or order so issued shall prescribe the conditions the employer must maintain, and the practices, means, methods, operations, and processes which he must adopt and utilize to the extent they differ from the standard in question. Such a rule or order may be modified or revoked upon application by an employer, employees, or by the commissioner of his own motion, in the manner prescribed for its issuance under this subsection at any time after six months from its issuance.

(2) (a) Any employer may apply to the commissioner for a temporary order granting a variance from a standard or any provision thereof promulgated under this section. Such temporary order shall be granted only if the employer files an application which meets the requirements of paragraph (b) of this subsection and establishes that (i) he is unable to comply with the standard by its effective date because of unavailability of professional or technical personnel or of materials and equipment needed to come into compliance with the standard or because necessary construction or alteration of facilities cannot be completed by the effective date, (ii) he is taking all available steps to safeguard his employes against the hazards covered by the standard, and (iii) he has an effective program for coming into compliance with the standard as quickly as practicable. Any temporary order issued under this subsection shall prescribe the practices, means, methods, operations, and processes which the employer must adopt and use while the order is in effect and state in detail his program

for coming into compliance with the standard. Such a temporary order may be granted only after notice to employes and an opportunity for a hearing *in accordance with this Act*; provided, that the commissioner may issue one interim order to be effective until a decision is made on the basis of the hearing. No temporary order may be in effect for longer than the period needed by the employer to achieve compliance with the standard or one year, whichever is shorter, except that such an order may be renewed not more than twice (i) so long as the requirements of this subsection are met and (ii) if an application for renewal is filed at least 90 days prior to the expiration date of the order. No interim renewal of an order may remain in effect for longer than 180 days.

(b) An application for a temporary order under this subsection shall contain:

(i) a specification of the standard or portion thereof from which the employer seeks a variance,

(ii) a representation by the employer, supported by representations from qualified persons having firsthand knowledge of the facts represented, that he is unable to comply with the standard or portion thereof and a detailed statement of the reasons therefor,

(iii) a statement of the steps he has taken and will take (with specific dates) to protect employes against the hazard covered by the standard,

(iv) a statement of when he expects to be able to comply with the standard and what steps he has taken and what steps he will take (with dates specified) to come into compliance with the standard, and

(v) a certification that he has informed his employes of the application by giving a copy thereof to their authorized representative, posting a statement giving a summary of the application and specifying where a copy may be examined at the place or places where notices to employes are normally posted, and by other appropriate means. A description of how employes have been informed shall be contained in the certification. The information to employes shall also inform them of their right to petition the commissioner of labor for a hearing.

(c) The commissioner of labor is authorized to grant a variance from any standard or portion thereof whenever he determines that such variance is necessary to permit an employer to participate in an experiment approved by him designed to demonstrate or validate new and improved techniques to safeguard the health or safety of workers.

Section 339. KRS 339.320 is amended to read as follows:

A person designated to issue employment certificates may refuse *after notice and apportunity for hearing in accordance with this Act* to grant such a certificate if in his judgment the best interests of the minor would be served by such refusal. Within ten (10) days after denying such certificate the person designated to issue employment certificates shall set forth in writing his reasons for denial and shall mail a copy to the department of labor and the minor.

Section 340. KRS 339.330 is amended to read as follows:

The department of labor, the superintendent of public instruction, or the officer issuing any employment certificate or age certificate, may revoke any such certificate *after notice and hearing in accordance with this Act* if in its or his judgment it was improperly issued or if the minor is illegally employed, and may *likewise* cancel any employment certificate or age certificate at any time it is found that the conditions for its legal issuance do not exist. The employer shall be notified of such revocation or cancellation in writing, and such minor shall not thereafter be employed or permitted to work until a new certificate has been legally obtained. If the revocation or cancellation is made other than by the department of labor, the department shall be notified thereof in writing, and if the revocation or cancellation is made other than by the issuing officer, such officer shall be notified thereof in writing.

Section 341. KRS 340.030 is amended to read as follows:

(1) An employment agency permit shall be granted only upon written application made upon forms furnished by the department. The application shall be accompanied by a permit fee of twenty-five dollars ($25.00), payable to the department. This permit fee shall, upon issuance of the permit, become an annual license fee.

(2) The department may, *after notice and opportunity for hearing in accordance with this Act,* refuse to issue a permit to an applicant, or may cancel an existing permit, if, in the judgment of the commissioner for human resources, the applicant or holder, or its officials or members are not of good moral character or have violated any of the laws of this state that the commissioner believes would render them improper persons for a permit.

(3) If the department refuses to grant a permit, it shall return the permit fee to the applicant , but need not state the various reasons for refusal .

Section 342. KRS 341.115 is amended to read as follows:

(1) The Secretary shall have the power and authority to adopt, amend, or rescind such rules and regulations as he deems necessary or suitable for the proper administration of this chapter. The commission shall determine its own organization and methods of procedure.

(2) General and special rules may be adopted, amended or rescinded by the Secretary only after public hearing or opportunity to be heard thereon, of which proper notice has been given. General rules shall become effective ten (10) days after filing with the secretary of state and publication in the manner which the commission prescribes. Special rules shall become effective ten (10) days after notification of or mailing to the last known address of the individuals or concerns affected thereby. Regulations shall become effective in the manner and at the time prescribed by the Secretary.

(3) The commission shall serve as an appeals board to hear and decide appeals filed in accordance with the provisions of KRS 341.430 and shall adopt regulations governing the manner of filing appeals and the conduct of hearings and appeals consistent with the provisions of this chapter *in accordance with this Act*.

Section 343. KRS 341.420 is amended to read as follows:

(1) The secretary shall appoint one (1) or more impartial *examiners* referees according to KRS 341.125 *and this Act* to hear and decide appealed claims.

(2) A party to a determination may file an appeal to *an examiner* a referee as to any matter therein within fifteen (15) days after the date such determination was mailed to his last known address.

(3) If benefits are allowed by a determination of the secretary, or a decision of *an examiner* a referee , the secretary or a reviewing court, such benefits shall be paid promptly without regard to the pendency of an appeal or period for filing an appeal therefrom. If a determination or decision allowing benefits is modified or reversed by a subsequent determination or decision, benefits shall be paid or denied for weeks of unemployment thereafter in accordance with such modification or denial. No injunction, supersedeas, stay or other writ or process suspending payment of such benefits shall be issued.

(4) Unless such appeal is withdrawn, *an examiner* a referee , after affording the parties reasonable opportunity for a fair hearing *in accordance with this Act*, shall affirm or modify the determination. The parties shall be duly notified of his decision, together with the reasons therefor, which shall be deemed to be the final *order of the agency* decision unless within fifteen (15) days after the date of mailing of such decision, further appeal is initiated under KRS 341.430.

Section 344. KRS 341.430 is amended to read as follows:

(1) The commission may on its own motion affirm, modify, or set aside any decision of a *hearing examiner* referee on the basis of the evidence previously submitted in such case, or direct the taking of additional evidence, or may permit any of the parties to such decision to initiate further appeals before it. The commission may remove to itself or transfer to another *hearing examiner* referee the proceedings on any claims pending before a *hearing examiner* referee .

(2) An application for review by the commission of any administrative determination affecting an employing unit's liability, contribution rate, amount of contributions, or claim for refund may be filed by such employing unit within twenty (20) days after notice of such determination was mailed to such employing unit's last known address.

(3) Any proceedings before the commission shall be heard and determined *in accordance with this Act* by the entire commission composed of three (3) members, except that no member of the commission shall participate in any case in which he is an interested party, and the chairman shall act alone in the absence or disqualification of any other member. The commission shall promptly notify the parties to any proceedings of its *final order in accordance with this Act* findings and decisions .

Section 345. KRS 341.440 is amended to read as follows:

(1) The manner in which appeals are presented and hearings and appeals conducted shall be in accordance with regulations prescribed by the Secretary for determining the rights of the parties, such hearings to be conducted in *accordance with this Act* a summary manner. A complete record shall be kept of all proceedings in connection with any appeal. All testimony at any hearing upon an appeal shall be recorded either stenographically or mechanically, but need not be transcribed unless further appealed . No examiner, referee or member of the commission shall participate in any hearing in which he is an interested party.

(2) Witnesses subpoenaed pursuant to proceedings under KRS 341.420 and 341.430 shall be allowed fees in accordance with rates allowed by law. Such fees and all expenses of proceedings before the department or commission involving disputed claims shall be deemed a part of the expense of administering this chapter.

(3) In the absence of an appeal therefrom, decisions of the commission shall become final *thirty (30)* twenty (20) days after the date they are made.

Section 346. KRS 342.215 is amended to read as follows:

The Workmen's Compensation Board shall consist of five members appointed by the Governor and shall be attached to the Department of Labor for administrative services.

(1) Of the members first appointed under this chapter one shall serve until January 1, 1974; one until January 1, 1975; one until January 1, 1976; and two until January 1, 1977. Thereafter, each term shall run for four years from the date of expiration of the term for which his predecessor was appointed, except that a person appointed to fill a vacancy prior to the expiration of such a term shall be appointed for the remainder of the term. Each member of the board shall hold office until his successor is appointed and qualifies. The members of the board shall have the qualifications required of Circuit Judges. The Governor shall designate a member of the board to serve as chairman. Any vacancy in the chairmanship shall be filled by the Governor. The Governor may at any time remove any member for cause after furnishing him with a written copy of the charges against him and giving him a public hearing *in accordance with this Act* if he requests it. Each member of the board shall be paid a salary in accord with the provisions of KRS 64.640.

(2) A decision concurred in by any three members shall constitute a decision of the board, unless there are two unfilled vacancies in which case a majority of the remaining members shall constitute a decision of the board.

(3) The terms of all members of the Workmen's Compensation Board who are in office prior to the effective date of this chapter shall automatically expire on January 1, 1973, any other statute to the contrary notwithstanding.

Section 347. KRS 342.345 is amended to read as follows:

Whenever an employer has complied with the provisions of KRS 342.340 relating to self-insurance, the board shall issue to such employer a certificate which shall remain in force for a period fixed by the board. But the board may, upon at least sixty (60) days' notice and a hearing to the employer *in accordance with this Act*, revoke the certificate upon satisfactory evidence for such revocation having been presented. The board may thereafter, upon petition of the employer and a hearing *in accordance with this Act*, grant a new certificate, but the employer shall not, as a matter of right, be entitled to a hearing for this purpose sooner than six (6) months after a previous revocation of his certificate.

Section 348. KRS 343.070 is amended to read as follows:

(1) Upon the complaint of either party to the agreement, or upon his own initiative, the supervisor may investigate or determine if there has been a violation of the terms of the apprenticeship or on-the-job training agreement approved under this chapter. He may hold hearings, inquiries, and other proceedings necessary to such investigation and determination. The parties to such agreement shall, after reasonable notice, be given a fair and impartial hearing. All such hearings, investigations, and determinations shall be made under authority of reasonable rules prescribed by the council *in accordance with this Act and* subject to the approval of the commissioner.

(2) The determination of the supervisor shall be filed with the commissioner. If no appeal therefrom is filed with the commissioner within fifteen (15) days the determination shall become final. Any party aggrieved by any determination or action of the supervisor may appeal to the commissioner, who shall hold a hearing thereon *in accordance with this Act* after due notice to the interested parties.

(3) Any party to an apprenticeship or on-the-job training agreement aggrieved by an order or decision of the commissioner may appeal to the Franklin Circuit Court *in accordance with this Act.* The decision of the commissioner shall be conclusive if no appeal is filed within *thirty (30)* sixty (60) days. An appeal from an order of the Franklin Circuit Court may be had to the Court of Appeals in the manner provided by the Rules of Civil Procedure.

(4) No person shall institute any action for the enforcement of any apprenticeship or on-the-job training agreement made and approved under this chapter unless he has first exhausted all administrative remedies provided by this section.

Section 349. KRS 344.210 is amended to read as follows:

(1) Within sixty (60) days after a complaint is filed, unless the commission has issued an order dismissing the complaint or stating the terms of a conciliation agreement or within thirty (30) days after an application for review is filed under subsection (3) of KRS 344.200, the commission shall serve on the respondent by registered or certified mail a written notice, together with a copy of the complaint as it may have been amended, requiring the respondent to answer the allegations of the complaint at a hearing *scheduled and conducted in accordance with this Act* before one or more members of the commission or an individual designated pursuant to its rules *and this Act*, at a time and place specified in the notice. A copy of the notice shall be furnished to the complainant, the attorney general, and such other public officers and persons as the commission deems proper.

(2) A member of the commission who filed the complaint or endeavored to eliminate the alleged unlawful practice by conference, conciliation or persuasion, shall not participate in the hearing or in the

subsequent deliberation of the commission.

(2) (3) The respondent may file an answer with the commission by registered or certified mail not less than five (5) days before the hearing date. The commission or the complainant may amend a complaint and the respondent may amend an answer at any time prior to the issuance of an order based on the complaint, but no order shall be issued unless the respondent has had the opportunity of a hearing on the complaint or amendment on which the order is based.

(3) (4) The case in support of the complaint shall be presented before the commission by one of its attorneys or staff. Efforts at conference, conciliation, and persuasion shall not be received in evidence.

(4) (5) A respondent who has filed an answer or whose default in answering has been set aside for good cause shown may appear at the hearing, may examine and cross-examine witnesses and the complainant, and may offer evidence. The complainant, the attorney general, and, in the discretion of the commission, any person may intervene *in accordance with this Act,* examine and cross-examine witnesses, and present evidence.

(5) (6) If the respondent fails to answer the complaint, the commission may enter his default. Unless the default is set aside for good cause shown, the hearing may proceed on the evidence in support of the complaint.

(6) (7) Testimony taken at the hearing shall be under oath and transcribed *and the commission shall keep a record of the proceedings as required by this Act.* After the hearing, in its discretion, the commission upon notice to all parties with an opportunity to be present may take further evidence or hear argument.

Section 350. KRS 345.070 is amended to read as follows:

Violations of the provisions of KRS 345.050 shall be deemed to be unfair labor practices remedial by the board in the following manner.

(1) Whenever it is charged by a public employer or a labor organization that any person has engaged in or is engaging in any such unfair labor practices, the board, or any agent designated by the board for such purposes, shall issue and cause to be served upon the person a copy of the charges and a notice of hearing before the board or a member thereof, or before a designated agent, at a place therein fixed , not less than five days after serving of the copy of the charges by the board . *Such notice and hearing shall be in accordance with this Act.* Any charge may be amended by the charging party, at any time prior to the issuance of an order based thereon, provided that the charged party is not unfairly prejudiced thereby. The person upon whom the charge is served may file an answer to the charge. The charging party and the person charged shall appear in person or otherwise and give testimony at the place and time fixed in the notice of hearing. In the discretion of the member or agent conducting the hearing or the board, any other person may be allowed to intervene in the proceeding and to present testimony. In any hearing the board shall not be bound by the rules of evidence prevailing in the courts.

(2) The testimony taken by the member, agent or the board shall be reduced to writing and filed with the board. Thereafter the board upon notice may take further testimony or hear argument. If upon the preponderance of the testimony taken the board is of the opinion that any person named in the charge has engaged in or is engaging in an unfair labor practice, then it shall *make its final order in accordance with this Act* state its findings of fact and shall issue and cause to be served on the person an order requiring him to cease and desist from the unfair labor practice, and to take such affirmative action including reinstatement of fire fighters with or without back pay, as will effectuate the policies of this chapter. The order may further require the person to make reports from time to time showing the extent to which he has complied with the order. If upon the preponderance of the testimony taken the board is not of the opinion that the person named in the charge has engaged in or is engaging in the unfair labor practice, then the board shall state its finding of fact and shall issue an order dismissing the complaint. No order shall issue based upon any unfair labor practice occurring more than six months prior to the filing of the charge with the board, unless the person aggrieved thereby was prevented from filing the charge by reason of service in the armed forces, in which event, the six-month period shall be computed from the day of his discharge. No order of the board shall require the reinstatement of any individual as a fire fighter who has been suspended or discharged, or the payment to him of any back pay, if the individual was suspended or discharged for cause.

(3) Until the record in a case has been filed in court, the board at any time, upon reasonable notice and in such manner as it deems proper, may modify or set aside, in whole or in part, any finding or order made or issued by it.

(4) The board or the charging party may petition for the enforcement of the order and for appropriate temporary relief or restraining order, and shall file in the circuit court *such petition in accordance with this Act.* for the county in which the violation occurred, the record in the proceedings. Upon the filing of the petition, the circuit court shall cause notice thereof to be served upon the charged party, and thereupon shall have jurisdiction of the proceeding and shall grant such temporary or permanent relief or restraining order as it deems just and proper, enforcing modifying, enforcing as so modified, or setting aside in whole or in part the order of the board. No objection that has not been urged before the board, its member or agent, shall be considered by the court, unless the failure or neglect to urge the objection is excused because of extraordinary

circumstances. The findings of the board with respect to questions of fact if supported by substantial evidence on the record considered as a whole shall be conclusive. If either party applies to the circuit court for leave to present additional evidence and shows to the satisfaction of the circuit court that the additional evidence is material and that there were reasonable grounds for the failure to present it in the hearing before the board, its member or agent, the court may order the additional evidence to be taken before the board, its member or agent, and to be made a part of the record. The board may modify its findings as to the facts, or make new findings, by reason of additional evidence so taken and filed, and it shall file the modifying or new findings, which findings with respect to questions of fact if supported by substantial evidence on the record considered as a whole shall be conclusive, and shall file its recommendations, if any, for the modification or setting aside of its original order. Upon the filing of the record (with it) the jurisdiction of the court shall be exclusive and its judgment and decree shall be final, except that the same shall be subject to review by the Court of Appeals in accordance with the general court rules.

(5) Any person aggrieved by a final order of the board granting or denying in whole or in part the relief sought may obtain a review of such order in the court by filing in the circuit court a *petition in accordance with this Act.* complaint praying that the order of the board be modified or set aside, with copy of the complaint filed with the board, and thereupon the aggrieved party shall file in the court the record in the proceeding, certified by the board. Upon the filing of the complaint, the court shall proceed in the same manner as under subsection (4), and shall grant to the board such temporary relief or restraining order as it deems just and proper, enforcing modifying, enforcing as so modified, or setting aside in whole or in part the order of the board. The findings of the board with respect to questions of fact if supported by substantial evidence on the record considered as a whole shall be conclusive.

(6) The commencement of proceedings under subsections (4) and (5) shall not, unless specifically ordered by the court, operate as a stay of the board's order.

(7) Complaints filed under this chapter shall be heard expeditiously by the court to which presented, and shall take precedence over all other civil matters except earlier matters of the same character.

Section 351. KRS 345.080 is amended to read as follows:

(1) If after a reasonable period, but in no event less than thirty days, of negotiations over the terms of a new collective bargaining agreement or modifications in an existing agreement the parties to the negotiations are deadlocked, either party or the parties jointly may petition the board, by certified mail, return receipt requested or by registered mail, to initiate fact finding.

(2) Upon receipt of a petition to initiate fact finding, the commissioner shall cause an investigation to determine whether or not the parties are deadlocked in their negotiations. During the course of this investigation, the commissioner is empowered to utilize his office in an effort to effectuate a settlement between the parties through mediation and conciliation.

(3) Upon completion of the commissioner's investigation, and if a settlement between the parties has still not been reached, the commissioner shall within five days appoint a qualified and disinterested person as the impartial chairman of a three-man panel to function as the fact finders. In addition to the impartial chairman, the other two members of the panel shall be one member named by the labor organization and one by the employer, parties to the deadlocked negotiations.

(4) Upon consultation with the other members of the panel, the impartial chairman shall establish dates and places for public hearings. Whenever feasible, public hearings shall be held within the jurisdiction in which the employer is located. *Such hearings shall be conducted in accordance with this Act.* The panel may subpoena witnesses, and a written transcript of the hearing shall be made. Upon completion of the hearings the panel shall, by majority decision, make written findings of fact and recommendations for solution of the dispute. The panel shall cause all of its written findings, recommendations and opinions to be served on the employer and labor organization (parties) and same shall be released to the public. Expenses incurred by the three-man panel in this section shall be paid by the parties involved in the labor dispute.

(5) The commissioner may adopt, promulgate, amend and rescind such rules and regulations as he deems necessary and administratively feasible not inconsistent with the provisions of this chapter *and this Act* to carry out his responsibilities over the fact-finding procedures set forth in this section. However, unless the parties agree to extend the time for the hearings, they must be completed with recommendations from the fact-finding panel, within 120 days from the date the petition to initiate the fact-finding procedure was received by the commissioner.

Section 352. KRS 345.120 is amended to read as follows:

(1) There is hereby created and established a state labor relations board to assist in resolving disputes between public employers and fire fighters or their labor organization which shall be composed of three members appointed by the governor, one for a term of two years, one for a term of three years, and one for a term of four years. The governor shall designate one member to serve as chairman of the board. Thereafter, upon the expiration of the term of any member, members shall be appointed for four-year terms by the

governor.

(2) Each member of the board shall have been an elector in this state for at least one year next preceding his appointment. Any member may be removed by the governor for cause, shown in a public hearing *scheduled and conducted in accordance with this Act* after the accused has been given *notice as prescribed in this Act* a copy of the charges made and has had an opportunity to answer such charges. The governor shall fill any vacancy by appointment for the unexpired term. No member shall receive a salary but each member shall be paid $50 and expenses for each day during which he is engaged in the duties of the board. The board is authorized to hold hearings at any place in this state*; but all such hearings shall be scheduled and conducted in accordance with this Act and such procedures in accordance therewith as the Board may adopt after hearing pursuant to subsection (7) of this section*. Any and all expenses incurred by the labor relations board shall be shared by all parties concerned in the dispute.

(3) The board shall appoint such employes as may be necessary to carry out the work of the board. All files, records and documents accumulated by the board shall be kept in offices provided by the board. All decisions shall be made by a majority of the board.

(4) To accomplish the objectives and to carry out the duties prescribed by this chapter, the board may subpoena witnesses, issue subpoenas to require the production of books, papers, records and documents which may be needed as evidence in any matter under inquiry, and may administer oaths and affirmations.

(5) In case of neglect or refusal to obey a subpoena issued to any person, the circuit court of the county in which the investigations or the public hearings are taking place, upon application by the board may issue an order requiring such person to appear before the board, any member or agent, to produce evidence or give testimony about the matter under investigation. A failure to obey such order may be punished by the court as a contempt.

(6) Any subpoena, notice of hearing or other process or notice of the board issued under the provisions of this chapter *shall be given in accordance with this Act* may be served personally, by certified mail, return receipt requested or by registered mail or by leaving a copy at the principal office or place of residence of the respondent required to be served . A return, made and verified by the individual making such service and setting forth the manner of such service is proof of service and a returned post-office receipt, when certified or registered mail is used, is proof of service. All process of any court to which application may be made under the provisions of this chapter may be served in the county wherein the persons required to be served reside or may be found.

(7) The board shall adopt, promulgate, amend or rescind such rules and regulations as it deems necessary and administratively feasible to carry out the provisions of this chapter. Public hearings shall be held by the board on any proposed rule or regulation of general applicability designed to implement, interpret or prescribe policy, procedure or practice requirements under the provisions of this chapter and on any proposed change in an existing rule or regulation. Reasonable notice shall be given prior to such hearings, which shall include the time, place and nature of such hearing and also the terms or substance of the proposed rule or regulation or the changes of such rule or regulation.

Section 353. KRS 350.050 is amended to read as follows:

The department for natural resources and environmental protection under the supervision of the secretary of the department for natural resources shall have and exercise the following authority and powers:

(1) To exercise general supervision and administration and enforcement of this chapter and all rules and regulations and orders promulgated thereunder;

(2) To encourage and conduct investigations, research, experiments and demonstrations, and to collect and disseminate information relating to strip mining and reclamation of lands and waters affected by strip mining;

(3) To adopt, without hearing, rules and regulations with respect to the filing of reports, the issuance of permits and other matters of procedure and administration;

(4) To examine and pass upon all plans and specifications submitted by the operator for the method of operation, backfilling, grading and for the reclamation of the area of land affected by his operation;

(5) To make investigations or inspections which may be deemed necessary to insure compliance with any provision of this chapter;

(6) To order, through personnel of the department *and in accordance with the provisions of this Act*, the suspension of any permit for failure to comply with any of the provisions of this chapter or any regulations adopted pursuant thereto;

(7) To order, through personnel of the department *and in accordance with the provisions of this Act*, the stopping of any operation that is started without first having secured a permit as required by this chapter.

Section 354. KRS 350.130 is amended to read as follows:

(1) If any of the requirements of this chapter or rules or regulations adopted pursuant thereto or the orders of the department have not been complied with within the time limits set by the department or by this

chapter, the department shall cause a notice of noncompliance to be served upon the operator, or where found necessary *for the public health, welfare or safety,* the secretary shall order the suspension of a permit *in accordance with this Act.* Such notice or order shall be handed to the operator in person or served by certified mail, return receipt requested or by registered mail addressed to the permanent address shown on the application for a permit. The notice of noncompliance or order of suspension shall specify in what respects the operator has failed to comply with this chapter or the regulations or orders of the department. If the operator has not reached an agreement with the department or has not complied with the requirements set forth in the notice of noncompliance or order of suspension within time limits set therein, the permit may be revoked by order of the department *after notice and a hearing in accordance with this Act* and the performance bond shall then be forfeited to the department.

(2) When a bond is forfeited pursuant to the provisions of this chapter, the secretary shall give notice to the attorney general, who shall collect the forfeiture.

(3) An operator whose mining permit has been revoked or suspended shall not be eligible to receive another permit or to have suspended permits reinstated until he shall have complied with all the requirements of this chapter in respect to all permits issued him, provided, further, that no operator shall be eligible to receive another permit who has forfeited any bond unless the land for which the bond was forfeited has been reclaimed without cost to the state or the operator has paid such sum as the department finds is adequate to reclaim such lands. The department shall not issue any additional permits to any operator who has repeatedly been in noncompliance or violation of this chapter, or who has had permits revoked on more than three (3) occasions. The department shall issue regulations concerning repeated noncompliance by any operator.

Section 355. KRS 351.030 is amended to read as follows:

(1) *All hearings permitted or required by law to be scheduled and conducted by the department shall be in accordance with this Act.* The department, *pursuant to this Act,* may prescribe rules of procedure and for offering evidence in all matters brought before it, and shall prepare and, on request, furnish to applicants copies of forms of notices and other forms that the department requires to be used, and shall prescribe the manner of serving such notices.

(2) The department shall hold one or more hearings on each matter brought before it. The commissioner, or his authorized representative of the department, may administer oaths. All interested persons shall be given due notice and an opportunity to appear and offer evidence, and to make argument by counsel if desired. The department shall decide each matter in controversy in the manner that seems to it just and reasonable and necessary or desirable for the proper enforcement of KRS 352.510 or 353.050 to 353.130.

Section 356. KRS 351.040 is amended to read as follows:

(1) Any party in interest dissatisfied with an order of the department may *institute proceedings for judicial review of such order in accordance with this Act.* commence an equitable action against the department and other interested parties as defendants, to vacate or set aside, in whole or in part, any such order. The action may be brought in the circuit court of the county where the subject matter involved in the order, or the well or workable coal bed or part thereof, is located. The court may grant relief from any unlawful or unreasonable order of the department, and render such judgment as appears to it to be equitable and just.

(2) The pendency of the action shall not of itself suspend the operation of the order of the department, but during the pendency of the action any party may secure from the court an order suspending or staying the operation of the order of the department pending the action by giving to the other parties adequate security, approved by the court, against loss due to the delay in enforcement of the order, in case the order under review is not set aside, and the court may, without security being given, suspend the operation of the order, in whole or in part, on such terms as it deems just and in accordance with the practice of courts of equity; Provided, however, That the operation of an order pertaining to safety in coal mines shall not be suspended temporarily pending final decision of the court.

(3) Appeals may be taken to the Court of Appeals as in other cases.

Section 357. KRS 351.175 is amended to read as follows:

(1) Within forty-five (45) days after January 1, 1953, and of each year thereafter, the owner, operator, or lessee of each mine shall procure from the department a license to operate such a mine, and such license shall not be transferable. Any owner, operator, or lessee who assumes control of a mine, opens a new mine or reopens an abandoned mine during any calendar year shall procure such license before mining operations are begun.

(2) The license shall be in such printed form as the commissioner may prescribe and when issued shall be kept posted at a conspicuous place near the main entrance of the mine.

(3) Requests for such license shall be made to the department and such requests shall be accompanied by a U.S. postal money order or cashier's check drawn in favor of the state treasurer in the amount of twenty-

five dollars ($25.00) for each mine. When the annual report of the operator and the annual mine map, as required by KRS 351.170 and 352.450, together with a certification from the commissioner of labor that the applicant, except an applicant for a mine license who employs fewer than ten (10) employes, for license has presented positive proof of compliance with the provisions of KRS chapter 342, are properly submitted to the department, the license shall be issued. The commissioner or his accredited agents shall have the authority to extend the time for filing of the map not to exceed an additional forty-five (45) days. Upon receipt of withdrawal of the certification of the commissioner of labor the department shall *after notice and hearing in accordance with this Act* forthwith revoke any license hereunder issued. Revocation of said license shall be an administrative function of the department. Appeal of said *revocation* administrative function shall lie in the Fayette Circuit Court *in accordance with this Act.*

(4) Any owner, operator or lessee operating a mine and who fails to obtain his license as required by this section shall be guilty of a misdemeanor, and shall be subject to a fine of not less than one hundred dollars ($100) nor more than three hundred dollars ($300) at the discretion of the court. Each day the mine is operated without a license constitutes a separate offense. Jurisdiction for such offenses shall lie in the circuit court of the county in which the offense occurred.

(5) The mine inspector shall have the authority to stop production at the mine of any operator who fails to procure a license or fails to furnish a certification of compensation coverage as required under this section.

(6) The application for a license shall be accompanied by a transportation plan which shall set forth the portions of the state primary road system, if any, over which the applicant proposes to transport minerals extracted in the mining operation. The transportation plan shall specify the legal weight limits for each portion of any such highway or bridge over which the applicant proposes to transport minerals. The transportation plan shall include any proposal by the applicant to obtain a special permit pursuant to the provisions of KRS 189.271 to exceed the weight limits on any highway or bridge. The transportation plan shall contain a certification by a duly authorized official of the department of transportation attesting the accuracy of the transportation plan in regard to the locations and identities of highways and bridges on the state primary road system and the accuracy of the specifications of weight limits on such highways and bridges.

Section 358. KRS 351.320 is amended to read as follows:

No person shall detonate explosives in any blasting operation in which more than five pounds of explosives or the equivalent are used in a single charge unless he has passed an examination, prescribed by the department, which shall test the examinee's skill and knowledge of the principles and practice of blasting operations and the storage, moving, handling and detonation of explosives. Application for examination as a blaster shall be in writing upon a form furnished by the department and shall be accompanied by a fee of ten dollars. If the applicant is successful in passing the examination, a license indicating his competency to detonate explosives shall be issued upon the payment of an additional fee of five dollars. Anything hereinbefore to the contrary notwithstanding, the department shall issue a license without examination to any applicant who shall show to the department that he has, on June 16, 1972, had three years' experience in the handling and use of explosives. Each blaster shall be required to renew his license each year by application to the department, which application shall be accompanied by a fee of three dollars and fifty cents. The commissioner may suspend any license for due cause but no license may be revoked until the licensee has been *given notice and* granted a hearing *in accordance with this Act.*

Section 359. KRS 352.390 is amended to read as follows:

The Board of Examiners may revoke the certificate of a mine foreman, assistant mine foreman or fire boss if it is established in the judgment of the board *after notice and hearing in accordance with this Act* that the holder has become unworthy to hold the certificate by reason of violation of law, intemperate habits, incapacity, abuse of authority, willful failure to comply with the instructions of the mine inspector to obey the mining laws, or for other just cause. The certificate holder against whom charges are made may appear before the board and defend against the charges, and shall have five days' notice in writing of the charges previous to the hearing.

Section 360. KRS 352.510 is amended to read as follows:

(1) In any underground mine before removing any coal or other material or driving any entry or passageway within five hundred feet of any natural gas or petroleum well, or before extending the workings in any mine beneath any tract of land on which such wells are also drilled, or within five hundred feet of any such well or under any tract of land in visible possession of a well operator, the operator shall forward simultaneously to the well operator and to the department of mines and minerals, by certified mail, return receipt requested or by registered mail, a copy of the maps and plans required by law to be filed and kept up to date, showing on the copy of the map or plan its mine workings and projected mine workings beneath the tract of land and within five hundred feet of its outer boundaries. The operator may then proceed with his mining operations in the manner indicated on the copy of the map or plan, but if the conduct of his mining

operations nearer than five hundred feet to any such well, whether completed or being drilled, or to any proposed well where a derrick is being constructed for drilling, or proposed well will endanger the use of drilling of the well, the well owner or operator affected may within five days from the receipt of the copy of the map by him and the department, file specific objections in writing to the mining operations within less than five hundred feet of the well, and if the objection is so filed the department shall notify the operator of the character of the objections and fix a time and place for a hearing not more than ten days from the end of said five-day period. At the hearing the operator and the well operator, or such of them as are present or represented, shall proceed to consider the objections and agree upon the character and extent of operations to be conducted within less than five hundred feet of the well so as to satisfy the objections raised and meet the approval of the department and, if no agreement can be reached, the department, after *notice and* a full hearing, *in accordance with KRS 353.200* shall make a decision defining what coal or clay, if any, is necessary to be left for the safe protection of the use and operation of the well. The decision shall be subject to appeal by either party as provided in KRS 351.040. The department shall keep a complete record of all such hearings *in accordance with KRS 353.200.*

(2) The mine operator shall, every six months, while mining within five hundred feet of the well, bring up to date the maps and plans required by this section, or file new maps and plans complete to date.

Section 361. KRS 353.060 is amended to read as follows:

If the drilling of a well on any tract underlaid with coal-bearing strata will endanger the present or future use or operation of a workable coal bed, the owner or coal operator affected may, within five (5) days from the receipt of the plat by him and by the department, file with the department specific objections in writing to such proposed location, and if the objections are so filed the department shall notify the well operator of the character of the objections and shall fix a time and place for a hearing *in accordance with KRS 353.200,* not more than ten (10) days after the end of the five-day period, at which hearing the objections shall be considered. At the hearing the well operator and the coal operator or owner, or such of them as are present or represented, shall consider the objections and either agree upon the location as proposed or change it so as to satisfy all objections and meet the approval of the department. Any new location thus selected and agreed upon shall be indicated on a plat in accordance with KRS 353.050 and thereupon the department shall issue to the well operator a drilling permit approving the new location and authorizing the well operator to drill at the location. If the coal operator and well operator, or the owner and well operator, are unable to agree, the department shall, in view of the purposes and intent of this chapter and in compliance therewith, fix a location on the tract as near the proposed location as possible and shall issue to the well operator a permit to drill at the new location. If no objections are filed within the five-day period the department shall immediately issue to the well operator a *drilling* dwelling permit approving the location and authorizing the well operator to proceed to drill there.

Section 362. KRS 353.200 is amended to read as follows:

(1) The department shall exercise supervision over the drilling, casing, plugging and filling of all wells drilled through workable coal beds and all mining operations in close proximity to any well, and for this purpose shall have access to the records and properties of coal and oil operators whenever necessary.

(2) The department may receive, or may file on its own motion, formal complaints charging that drilling or mining operations are being conducted contrary to the provisions of KRS 353.010, 353.050 to 353.130, or 352.510, or to the order of the department, and shall *give notice, schedule and* hold formal hearings *in accordance with KRS 351.030* on such complaints. Immediately following the hearing, the department shall make its findings of fact and enter such order as in its judgment is necessary to secure the proper administration of KRS 353.010, 353.050 to 353.130, or 352.510.

Section 363. KRS 353.565 is amended to read as follows:

(1) There is hereby created in the Department of Mines and Minerals, the "Kentucky Oil and Gas Conservation Commission" which shall be composed of five (5) members. Four (4) of the members shall be appointed by the governor and the fifth member, who shall serve as chairman of the commission, shall be the Director of Oil and Gas Conservation and who shall serve in an ex-officio capacity as a non-voting member except in the case of a tie. The four (4) members appointed by the governor must be residents of this state and not more than one of them may be directly employed in the exploration for or the production of oil or gas, or deriving more than fifty percent (50%) of such person's income from the exploration for or production of oil or gas, or engaged in a business directly servicing or supplying such activities. No member of the Commission shall participate in the deliberations of the Commission or vote on any matter before the Commission in which he, his employer, or any business unit in which he has a financial interest is an interested party; provided that a member of the Commission is not prohibited from deliberating or voting on matters of general interest, such as the fixing of statewide spacing patterns, affecting him, his employer, or a business unit in which he has financial interest as a member of a class of persons to be affected by a rule, regulation or order of the

Commission. The commission shall not contain more than one (1) representative from any one operator, including subsidiaries or affiliates. Of the four (4) members appointed by the governor, two (2) shall be residents of Eastern Kentucky and two shall be residents of Western Kentucky. Longitude line 84 30' shall be deemed as the division line between Eastern Kentucky and Western Kentucky.

(2) The members of the commission, except the chairman, shall be appointed for terms of four (4) years each, except that the original appointments shall be for terms of one (1), two (2), three (3) and four (4) years respectively. Each member appointed by the governor shall serve until his successor has been appointed and qualified. Members may be reappointed by the governor to serve successive terms. The members of the commission, before performing any duty hereunder, shall take oath which shall be certified by the officer administering it. The oath in writing and the certificate shall be filed in the office of the Secretary of State. Vacancies in the membership appointed by the governor shall be filled by appointment by him and for the unexpired term of the member whose office shall be vacant and such appointment shall be made by the governor within sixty (60) days of the occurrence of such vacancy. Any member appointed by the governor may be removed by the governor in case of incompetency, neglect of duty, gross immorality or malfeasance of office.

(3) The commission shall meet at such times and places as shall be designated by the chairman. The chairman may call a meeting of the commission at any time, and he shall call a meeting of the commission upon the written request of two (2) members. Notification of each meeting shall be given in writing to each member by the chairman at least five (5) days in advance of the meeting. Any three (3) members, one of which may be the chairman, shall constitute a quorum for the transaction of any business, including the holding of hearings, as hereinafter provided for. A majority of the commission present shall be required to determine any issue brought before it for decision.

(4) Each member of the commission, except the chairman, shall receive thirty-five dollars ($35) per diem not to exceed one hundred (100) days per calendar year while actually engaged in the performance of his duties as a member of the commission. Each member of the commission, including the chairman, shall also be reimbursed for all reasonable and necessary expenses actually incurred in the performance of his duties as a member of the commission.

(5) The commission shall execute and carry out, administer and enforce the provisions of KRS 353.651 and 353.652 in the manner provided herein. The commission may make such investigation of records and facilities as it deems proper.

(6) In the event an emergency is found to exist by the commission which, in its judgment, requires the making, changing, renewal, or extension of a rule, regulation, or order *made in accordance with this Act,* without first having a hearing, such emergency rule, regulation, or order shall have the same validity as if a hearing with respect to the same had been held after due notice. The emergency rule, regulation or order hereby permitted shall remain in force no longer than forty-five (45) days from its effective date, and, in any event, it shall expire when the rule, regulation, or order made after due notice and hearing with respect to the subject matter of such emergency rule, regulation or order becomes effective.

(7) The commission shall have specific authority to:

(a) Make and enforce reasonable rules and regulations and orders reasonably necessary to prevent waste, protect correlative rights, govern the practice and procedure before the commission *in accordance with the provisions of this Act* and otherwise administer the provisions of KRS 353.651 and 353.652; and

(b) Issue subpoenas for the attendance of witnesses and subpoenas duces tecum for the production of any books, records, maps, charts, diagrams and other pertinent documents, and administer oaths and affirmations to such witnesses, whenever, in the judgment of the commission, it is necessary to do so for the effective discharge of its duties under the provisions of KRS 353.651 and 353.652.

(8) Any interested person may have the commission call a hearing for the purpose of taking action in respect to any matter within the jurisdiction of the commission by making a request therefor in writing. Upon the receipt of any such request, the commission promptly shall *give notice and* call a hearing thereon, *to be scheduled and conducted in accordance with this Act* and, after such hearing and with all convenient speed, and in any event within thirty (30) days after the conclusion of such hearing, shall take such action with regard to the subject matter thereof as it may deem appropriate.

(9) Agreements made in the interest of conservation of oil or gas, or both, or for the prevention of waste, between and among owners or operators, or both, owning separate holdings in the same field or pool, or in any area that appears from geologic or other data to be underlaid by a common accumulation of oil or gas, or both, and agreements between and among such owners or operators, or both, and royalty owners therein, for the purpose of bringing about the development and operation of the field, pool or area, or any part thereof, as a unit, and for establishing and carrying out a plan for the cooperative development and operation thereof, when such agreements are approved by the commission, are hereby authorized and shall not be held or construed to violate any of the laws of this state relating to trusts, monopolies, or contracts and combinations in restraint of trade.

(10) Nothing in this section shall be construed as giving to the Commission the right or authority to supersede the authority of the Department in the administration of KRS 353.060.

Section 364. KRS 353.651 is amended to read as follows:

The following provisions of this section shall apply to any deep well:

(1) Drilling units:

(a) The commission shall, after notice and a hearing, regulate the drilling and location of wells in any pool and the production therefrom so as to prevent reasonably avoidable net drainage from each developed unit (that is, drainage which is not equalized by counterdrainage) so that each owner in a pool shall have the right and opportunity to recover his fair and equitable share of the recoverable oil and gas in such pool.

(b) For the prevention of waste, to protect and enforce the correlative rights of the owners in a pool, and to avoid the augmenting and accumulation of risks arising from the drilling of an excessive number of wells, the commission shall, after notice and a hearing, establish drilling units for each pool. The spacing of wells in proved oil and gas fields shall be governed by special rules for that particular field adopted after notice and hearing. Wells drilled in areas not covered by special field rules shall be governed by statewide rules adopted by the commission after notice and hearing. Notice for hearings prescribed herein shall be given pursuant to KRS 353.680 and notice for hearings governing drilling units for a particular pool or special field rules shall be given to all persons reasonably known to the Commission to own an interest in the oil and gas therein.

(c) Each well permitted to be drilled upon any drilling unit shall be drilled in accordance with the rules and regulations promulgated by the commission and in accordance with a spacing pattern fixed by the commission for the pool in which the well is located, with such exceptions as may be reasonably necessary where it is shown, in accordance with regulations adopted by the commission, that the unit is partly outside the pool or for some other reason a well otherwise located on the unit would not be likely to produce in paying quantities, or topographical conditions are such as to make the drilling at such location unduly burdensome. Whenever an exception is granted, the commission shall take such action as will offset any advantage which the person securing the exception may have over other owners by reason of the drilling of the well as an exception.

(d) No drilling unit established by the commission shall be smaller than the maximum area which can be drained efficiently by one deep well so as to produce the reasonable maximum recoverable oil or gas in such area, unless an exception is granted in accordance with regulations adopted by the commission.

(e) An order establishing drilling units may be modified, altered, extended, amended or vacated by the commission after notice and hearing as prescribed above.

(2) Pooling of interests in drilling units:

(a) When two or more separately owned tracts are embraced within a drilling unit, or when there are separately owned interests in all or a part of a drilling unit, the interested persons may pool their tracts or interests for the development and operation of the drilling unit. In the absence of voluntary pooling and upon application of any operator having an interest in the drilling unit, and after the commission has given notice to all persons reasonably known to own an interest in the oil or gas in the drilling unit, and after a hearing *as provided for in this chapter*, the commission shall enter an order pooling all tracts or interests in the drilling unit for the development and operation thereof and for the sharing production therefrom. Each such pooling order shall be upon terms and conditions which are just and reasonable.

(b) All operations, including, but not limited to, the commencement, drilling or operation of a deep well, upon any portion of a drilling unit for which a pooling order has been entered, shall be deemed for all purposes the conduct of such operations upon each separately owned tract in the drilling unit by the several owners thereof. That portion of the production allocated to a separately owned tract included in a drilling unit shall, when produced, be deemed for all purposes to have been actually produced from such tract by a deep well drilled thereon.

(c) Any pooling order under the provisions of subsection (2) of this section shall authorize the drilling and operation of a deep well for the production of oil or gas from the pooled acreage; shall designate the operator to drill and operate such deep well; shall prescribe the time and manner in which all owners of operating interests in the pooled tracts or portions of tracts may elect to participate therein; shall provide that all reasonable costs and expenses of drilling, completing, equipping, operating, plugging and abandoning such deep well shall be borne, and all production therefrom shared, by all owners of operating interests in proportion to the acreage in the pooled tracts owned or under lease to each owner; and shall make provision for payment of all reasonable costs thereof, including reasonable charge for supervision and for interest on past due accounts, by all those who elect to participate therein. Upon the application of any operator having an interest in the drilling unit, the person or persons selected to drill and operate said deep well shall be determined by competitive bids under the procedure set out in KRS 74.260.

(d) Upon request, any such pooling order shall provide just and equitable alternatives whereby an owner of an operating interest who does not elect to participate in the risk and cost of the drilling of a deep well may elect to surrender his interest or a portion thereof to the participating owners on a reasonable basis and for a reasonable consideration, which, if not agreed upon, shall be determined by the commission; or to participate in the drilling of the deep well on a limited or carried basis on terms and conditions which, if not agreed upon, shall be determined by the commission to be just and reasonable.

(e) If an operator owning an interest in a pooled drilling unit elects not to participate in the risk and cost of drilling of a deep well thereon, and another operator owning an interest therein, shall drill and operate, or pay the costs of drilling and operating a deep well as provided in the Commission order, then such operating owner shall be entitled to the share of production from the tracts or portions thereof accruing to the interest of such nonparticipating owner, exclusive of any royalty or overriding royalty reserved in any leases, assignments thereof or agreements relating thereto, of such tracts or portions thereof, or exclusive of one-eighth (1/8) of the production attributable to all unleased tracts or portions thereof, until the market value of such nonparticipating owner's share of the production, exclusive of such royalty, overriding royalty or one-eighth (1/8) of production, equals one and one-fourth (1 1/4) times the share of such costs payable by or charged to the interest of such nonparticipating owner.

(f) If a dispute shall arise as to the costs of drilling and operating a deep well, the commission shall determine and apportion the costs, within ninety (90) days from the date of written notification to the commission of the existence of such dispute.

(3) This section shall not apply to wells drilled, deepened or reopened for the injection of water, gas or other fluids into any sub-surface formation.

Section 365. KRS 353.670 is amended to read as follows:

(1) All rules, regulations and amendments promulgated under KRS 353.500 to 353.720 shall be promulgated by the department after notice and a hearing. At all hearings held to consider any rules, regulations or amendments thereto, any interested person shall be entitled to be heard.

(2) All hearings held under this section shall be held at such time and place as is specified by the department, and according to rules and regulations promulgated *in accordance with this Act* under KRS 353.500 to 353.720. A written record of each hearing shall be kept, unless the keeping of a record shall be waived by all parties who participate therein. All interested persons shall be entitled to be heard at all hearings conducted under KRS 353.500 to 353.720.

(3) The director, or his representatives, shall attend all hearings under this section conducted by the department.

(4) All rules, regulations and orders promulgated or issued under KRS 353.500 to 353.720 shall be in writing, shall be entered in full and indexed in books to be kept by the department for that purpose, shall be public records open for inspection at all times during office hours, and shall be filed in accordance with the provisions of KRS 13.085. *Any order entered following a proceeding held in accordance with this Act shall be entered and notice thereof afforded in the manner therein required.* A copy of any rule, regulation or order, certified by the commissioner or director, shall be received in evidence in all courts of this commonwealth without any further authentication thereof.

Section 366. KRS 353.680 is amended to read as follows:

(1) Any notice required by KRS 353.500 to 353.720 shall be *as required and shall be* given *in accordance with this Act or* by any one or more of the following methods:

(a) Personal service;

(b) The United States mail registered or certified postage prepaid and addressed to the last known mailing address of the person or persons to whom notice is required; or

(c) *publication* Publication pursuant to KRS chapter 424.

(2) Notice of all hearings held *in accordance with KRS 353.670* under KRS 353.500 to 353.720 shall be mailed to all persons *not parties to the hearings* who shall specify to the department an address to which all such notices may be mailed. Notice mailed to such a person at the given address shall be sufficient notice to the person for all purposes of KRS 353.500 to 353.720.

(3) The date of service shall be on the date on which service was made in the case of personal service; the date of last publication in the case of notice by publication; and the date of mailing in the case of notice by mail.

(4) The notice shall issue in the name of the commonwealth *and* ; shall be signed by the department ; shall specify the style and number of the proceedings, the time and place of the hearing, and shall briefly state the purpose of the hearing .

(5) If notice is given by personal service, service may be made by an officer authorized to serve process, or by any agent or employe of the department in the same manner as is provided by law for the service of process in civil actions in the courts of the commonwealth. Proof of service by the agent or employe shall be by affidavit of the agent or employe making personal service.

Section 367. KRS 353.700 is amended to read as follows:

(1) Any person aggrieved by any order issued by the department or by the commission under KRS 353.500 to 353.720 shall have the right to bring a civil action for review of the order by filing a *petition* complaint in the circuit court *in accordance with this Act* of the county in which the premises or any portion thereof affected by the order is located, or in the Franklin Circuit Court .

(2) The suit shall be brought within thirty (30) days after the order *becomes* is issued, and in event no suit is filed within the thirty-day period, the order shall be final.

(3) In the suit the burden of proof shall be upon the party complaining of the order, and the order shall be deemed prima facie valid. Any party to the suit may offer in evidence all or any part of the record of the hearing which resulted in the order, and any other relevant evidence.

(4) On appeal no new evidence may be introduced, except as to fraud or misconduct of some person engaged in the hearing before the commission, unless the court upon motion and for good cause shown determines that the interests of justice will be better served by the introduction of new evidence. The court sitting without a jury shall hear the cause upon the record before it, and dispose of the appeal in a summary manner, being limited to determining: Whether or not the commission acted without or in excess of its powers; the order was procured by fraud; the order is not in conformity to the provisions of KRS Chapter 353; the order is clearly erroneous on the basis of reliable, probative and material evidence contained in the whole record; or the order is arbitrary, or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion. The court shall enter its findings on the order book as a judgment of the court, and such judgment shall have the same effect and be enforceable as any other judgment of the court in civil causes.

(5) The practice, pleading and proceedings in the suit shall be in accordance with the Rules of Civil Procedure.

(4) (6) In the suit the court may stay the order until the court shall enter its decree. The court shall have jurisdiction to enter a decree affirming or setting aside the order or remanding the cause with directions to modify the order so that it shall conform to the provisions of KRS 353.500 to 353.720. Appeals *to the Court of Appeals* may be taken by any party to the suit in the same manner and to the same extent as in other civil actions.

Section 368. KRS 363.330 is amended to read as follows:

(1) As used in this section unless the context requires otherwise:

(a) "Commercial weighing and measuring device" includes any weight or measure or weighing or measuring device commercially used or employed in establishing the size, quantity, extent, area, or measurement of quantities, things, produce, or articles for distribution or consumption, purchased, offered, or submitted for sale, hire, or award, or in computing any basis of weight, or measure, and also includes any accessory attached to or used in connection with a commercial weighing or measuring device when such accessory is so designed or installed that its operation affects, or may affect, the accuracy of the device.

(b) "Registered serviceman" means any individual who for hire, award, commission, or any other payment of any kind, installs, services, repairs, or reconditions a commercial weighing or measuring device, and which voluntarily registers himself as such with the Director of Weights and Measures.

(c) "Registered service agency" means any agency, firm, company, or corporation which, for hire, award, commission, or any other payment of any kind, installs, services, repairs or reconditions a commercial weighing or measuring device, and which voluntarily registers itself as such with the Director of Weights and Measures. Under agency registration, identification of individual servicemen shall not be required.

(2) It shall be the policy of the Director of Weights and Measures, hereinafter referred to as "director," to accept voluntary registration of an individual or agency that provides acceptable evidence that he or it is fully qualified to install, service, repair, or recondition a commercial weighing or measuring device; has a thorough working knowledge of all appropriate weights and measures laws, orders, rules, and regulations; and has possession of, or available for use, weights and measures standards and testing equipment appropriate in design and adequate in amount. An employe of government shall not be eligible for registration. This policy shall in no way preclude or limit the right and privilege of any qualified individual or agency not registered with the director to install, service, repair, or recondition a commercial weighing or measuring device.

(3) The director may enter into an informal reciprocal agreement with any other state or states that has or have similar voluntary registration policies. Under such agreement, registered servicemen and registered service agencies of the states party to the reciprocal agreement are granted full reciprocal authority, including reciprocal recognition of certification of standards and testing equipment, in all states party to such agreement.

(4) There shall be charged by the director an annual fee of $1 per registered serviceman and $5 per registered service agency to cover costs of administering the plan. The fee shall be paid to the director at the time application for registration is made, and annually, during the month of January, thereafter.

(5) An individual or agency may apply for voluntary registration to service weighing devices or measuring devices on an application form supplied by the director. The form, duly signed and witnessed, shall

include certification by the applicant that the individual or agency is fully qualified to install, service, repair, or recondition whatever devices for the service of which competence is being registered; has in possession, or available for use, all necessary testing equipment and standards; and has full knowledge of all appropriate weights and measures laws, orders, rules, and regulations. An applicant also shall submit appropriate evidence or references as to qualifications.

(6) Upon receipt and acceptance of a properly executed application form, the director shall issue to the applicant a "Certificate of Registration," including an assigned registration number, which shall remain effective until either returned by the applicant or withdrawn by the director.

(7) A bearer of a Certificate of Registration shall have the authority to remove an official rejection tag or mark placed on a weighing or measuring device by the authority of the director; place in service, until such time as an official examination can be made, a weighing or measuring device that has been officially rejected; and place in service, until such time as an official examination can be made, a new or used weighing or measuring device.

(8) The director shall furnish each registered serviceman and registered service agency with a supply of report forms to be known as "Placed in Service Reports." Such a form shall be executed in triplicate, shall include the assigned registration number, and shall be signed by a registered serviceman or by a serviceman representing a registered agency for each rejected device restored to service and for each newly installed device placed in service. Within twenty-four hours after a device is restored to service, or placed in service, the original of the properly executed "Placed in Service Report," together with any official rejection tag removed from the device, shall be mailed to the director at Frankfort, Kentucky. The duplicate copy of the report shall be handed to the owner or operator of the device, and the triplicate copy of the report shall be retained by the registered servicemen or agency.

(9) A registered serviceman and a registered service agency shall submit, at least biennially to the director, for his examination and certification, any standards and testing equipment that are used, or are to be used, in the performance of the service and testing functions with respect to weighing and measuring devices for which competence is registered. A registered serviceman or agency shall not use in servicing commercial weighing or measuring devices any standards of testing equipment that have not been certified by the director.

(10) The director may, for good cause, after careful investigation and *after notice and hearing in accordance with this Act* consideration , suspend or revoke a "Certificate of Registration."

(11) The director shall publish from time to time as he deems appropriate, and may supply upon request, lists of registered servicemen and registered service agencies.

Section 369. KRS 365.370 is amended to read as follows:

(1) The Department of Revenue shall prescribe, adopt, and enforce rules and regulations for the enforcement of KRS 365.260 to 365.380 and may from time to time undertake and make or cause to be made one or more cost surveys for the state or such trading area or areas as it defines. When each such survey is made by or approved by the department it is permissible to use the cost survey as provided in subsection (2) of KRS 365.320 and subsection (2) of 365.360.

(2) The department may, upon notice and after hearing *in accordance with this Act*, revoke or suspend any license issued under KRS 138.195 and the rules and regulations of the department promulgated thereunder, for failure of any person to comply with any provisions of KRS 365.260 to 365.380 or any rule or regulation adopted thereunder.

(3) All of the powers vested in the commissioner and Department of Revenue by the provisions of the Cigarette Tax Law are available for the enforcement of KRS 365.260 to 365.380.

(4) Any person aggrieved by any decision, order or finding of the department, suspending or revoking any such license, may appeal therefrom to the Kentucky Board of Tax Appeals as provided by law by filing a petition of appeal with the board in the manner and form and within the time and subject to the terms and conditions as the board shall by rules prescribe.

(5) The judgment or order of the board may be reviewed *in accordance with this Act* by a court of competent jurisdiction in the Commonwealth .

Section 370. KRS 366.140 is amended to read as follows:

No license shall be denied or revoked except after *notice and* a hearing thereon *in accordance with this Act.* The department shall give the applicant or licensee at least twenty days' written notice of the time and place of such hearing by registered or certified mail addressed to the principal place of business of such applicant or licensee. Any order of the commissioner denying or revoking such license shall state the grounds upon which it is based and shall not be effective until twenty days after written notice thereof has been sent by registered or certified mail to the applicant or licensee at such principal place of business.

Section 371. KRS 393.150 is amended to read as follows:

The commissioner shall consider any claim or defense permitted to be filed before the department and hear evidence concerning it *in a hearing scheduled and conducted in accordance with this Act*. If the claimant establishes his claim, the commissioner shall, when the time for appeal or further legal procedure has expired, authorize payment to him of a sum equal to the amount paid into the State Treasury in compliance with this chapter. The decision shall be in writing and shall state the substance of the evidence heard by the commissioner, if a transcript is not kept. The decision shall be a matter of public record.

Section 372. KRS 393.160 is amended to read as follows:

Any person dissatisfied with the decision of the commissioner may , within sixty days, appeal from it to the Franklin Circuit Court *in accordance with this Act* or file an action in that court to vacate the decision. In either event the proceedings shall be de novo, and no transcript of the record before the commissioner shall be required to be kept unless requested by the claimant. In such proceeding the commissioner shall be made a party defendant, and all other persons required by law to be made parties in actions in rem or quasi in rem shall be made parties . Any party adversely affected by the decision of the Franklin Circuit Court may appeal to the Court of Appeals in accordance with the Rules of Civil Procedure. Upon an appeal the state shall not be required to make a supersedeas bond. The provisions of this section relating to the decision of the commissioner and appeals therefrom shall also apply to a decision of the commissioner rendered under authority of KRS 393.110.

Section 373. KRS 416.140 is amended to read as follows:

(1) Subject to the provisions of subsections (2) and (3) of this section, any person authorized under the laws of this state to conduct the business of producing or supplying water, electricity, gas or gasoline for purposes of light, heat, domestic use or power, or who is engaged in the business of the transmission or sale of water, electricity, gas or gasoline for such purposes, the aforesaid businesses being for a public purpose, may construct and maintain transmission or distribution lines, including placing and maintenance of pipes, poles, wires, crossarms and all other equipment incident thereto, for use in the transmission and sale of such water, electricity, gas or gasoline under, on, along or over any right-of-way used as a state highway, county road, public way or dedicated road outside the limits of a city, and over, under or across any of the waters of this state outside the limits of a city, and may construct and maintain along any right-of-way used for purposes of such state highway or county road all erections and appliances that are necessary to transform, convert and apply such water, electricity, gas or gasoline to the public purposes of lighting, heat, domestic use or power and to distribute and deliver it to the consumers.

(2) The fixtures of the company shall not interfere with, obstruct or endanger the travel on and along the highway or road, nor obstruct the navigation of the waters, and the location of all transmission lines and other appliances shall be subject to the reasonable direction and regulation of the authorities having control of the highways, roads and waters through and over which the lines are constructed or proposed to be constructed.

(3) Before any persons named in subsection (1) of this section shall proceed to place his wires, poles or other appliances on or over any part of the right of way of a state highway, he shall first obtain from the bureau of highways a permit so to do. Any poles, wires or other obstructions, heretofore or hereafter placed along, under, on or over any state highway that are found by the bureau of highways to be unreasonably interfering in any way with the convenient, safe and continuous use and maintenance of such highway shall, *after notice and hearing in accordance with this Act* upon thirty days' notice to the person or his chief agent, by the bureau of highways, be *ordered* removed or relocated by such person at his own expense, except as otherwise provided in KRS 177.035. Whenever an order of the bureau of highways requires such removal or change in the location of any telephone, telegraph, electric light or other poles, signboards, fences, gasoline tanks and pumps, gas, water, sewerage, oil or other pipelines, or other similar construction or obstructions from the right-of-way of a state highway, and the owner thereof fails to remove or change the same at his own expense, except as otherwise provided in KRS 177.035, to conform to the order within the time stated in the *order* notice , the bureau of highways shall proceed to cause the obstruction to be removed; the expense thereby incurred shall be paid out of any money available therefor, and shall be charged against the owner and levied and collected and paid into the state treasury as provided by law.

Section 374. KRS 439.330 is amended to read as follows:

(1) The board shall:

(a) Study the case histories of persons eligible for parole, and deliberate on that record;

(b) Conduct hearings *in accordance with this Act* on the desirability of granting parole;

(c) Impose upon the parolee or conditional releasee such conditions as it sees fit;

(d) Order the granting of parole;

(e) Issue warrants for persons charged with violations of parole and conditional release and conduct hearings on such charges;

(f) Determine the period of supervision for parolees and conditional releasees, which period may be subject to extension or reduction after recommendation of the bureau is received and considered;

(g) Grant final discharge to parolees and conditional releasees.

(2) The board shall adopt an official seal of which the courts shall take judicial notice.

(3) The orders of the board shall not be reviewable except as to compliance with the terms of KRS 439.250 to 439.560.

(4) The board shall keep a record of its acts, shall notify each institution of its decisions relating to the persons who are or have been confined therein, and shall submit to the governor a report with statistical and other data of its work at the close of each fiscal year.

Section 375. KRS 439.340 is amended to read as follows:

(1) The board may release on parole such persons confined in any adult state penal or correctional institution of Kentucky as are eligible for parole. All paroles shall issue upon order of the board duly adopted. As soon as practicable after his admission and at such intervals thereafter as it may determine, the Bureau of Corrections shall obtain all pertinent information regarding each prisoner, except those not eligible for parole. Such information shall include his criminal record, his conduct, employment and attitude in prison, and the reports of such physical and mental examinations as have been made. The Bureau of Corrections shall furnish the circumstances of his offense and his previous social history to the institution and the board. The Bureau of Corrections shall prepare a report on such information as it obtains. It shall be the duty of the Bureau of Corrections to supplement this report with such material as the board may request and submit such report to the board.

(2) Before granting the parole of any prisoner, the board shall consider the pertinent information regarding the prisoner and shall have him appear before it, or one or more members for interview and hearing *in accordance with this Act.* A parole shall be ordered only for the best interest of society and not as an award of clemency, and it shall not be considered a reduction of sentence or pardon. A prisoner shall be placed on parole only when arrangements have been made for his proper employment or for his maintenance and care, and when the board believes he is able and willing to fulfill the obligations of a law abiding citizen.

(3) The board shall adopt such rules or regulations as it may deem proper or necessary with respect to the eligibility of prisoners for parole, the conduct of parole hearings, or conditions to be imposed upon parolees. Regulations governing the eligibility of prisoners for parole shall be in accordance with prevailing ideas of correction and reform.

(4) Whenever an order for parole is issued it shall recite the conditions thereof.

SECTION 376. A NEW SECTION OF KRS CHAPTER 13 IS CREATED TO READ AS FOLLOWS:

The effective date of this Act shall be July 1, 1978, except as to adjudicatory proceeding then pending, but any agency may adopt adjudicatory procedures consistent with this Act prior to July 1, 1978.

HB 138, AN ACT relating to public records.

WHEREAS, government is the servant of the people and not the master of them; and

WHEREAS, access to information concerning the conduct of the peoples' business is a fundamental and necessary right of every citizen in the Commonwealth of Kentucky.

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 61 is created to read as follows:

As used in this Act:

(1) "Public agency" means every state or local officer, state department, division, bureau, board, commission and authority; every legislative board, commission, committee and officer; every county and city governing body, council, school district, special district, municipal corporation and any board, department, commission, committee, subcommittee, ad hoc committee, council or agency thereof; and any other body which is created by state or local authority in any branch of government or which derives at least twenty-five percent (25%) of its funds from state or local authority.

(2) "Public records" means all books, papers, maps photographs, cards, tapes, discs, recordings or other documentary materials regardless of physical form or characteristics, which are prepared, owned, used, in the possession of or retained by a public agency.

(3) "Official custodian" means the chief administrative officer or any other officer or employe of a public agency who is legally responsible for the maintenance, care and keeping of public records, regardless of whether such records are in his actual personal custody and control.

(4) "Custodian" means the official custodian or any authorized person having personal custody and control of public records.

(5) "Trade secrets" means unpatented, secret, commercially valuable plans, appliances, formulae, or processes, which are used for the making, preparing, compounding, treating, or processing of articles or materials which are trade commodities obtained from a person and which are generally recognized as confidential.

Section 2. A new section of KRS Chapter 61 is created to read as follows:

(1) All public records shall be open for inspection by any person, except as provided in this Act or otherwise provided by law, and suitable facilities shall be made available by each public agency for the exercise of this right. No person shall remove original copies of public records from the offices of any public agency without the written permission of the official custodian of the record.

(2) Public records shall be available for inspection during the regular office hours of the public agency concerned.

(3) If the public records requested are not in the custody or control of the person to whom application is made, such person shall immediately notify the applicant of this fact and shall also state to the best of his knowledge, the name and location of the official custodian of the records being sought.

(4) If the public records requested are in the custody or control of the person to whom application is made but are in active use or in storage, and therefore not available at the time an applicant asks to examine them, the custodian shall immediately notify the applicant of this fact and shall set a date, not to exceed three (3) days from the date of the request, at which time the records will be available for the exercise of rights granted by this Act. In the event that more than three (3) days is required for the production of the records requested, the custodian shall, within three (3) days from the date of the request, notify the applicant of this fact and provide a written, detailed explanation as to the reason for the delay.

Section 3. A new section of KRS Chapter 61 is created to read as follows:

(1) In all cases in which a person has the right to inspect any public records, he also has the right to make memoranda or abstracts of the record or he may request a copy or copies of the record from the custodian. Requests for copies of public records may be made in person or submitted in writing.

(2) The official custodian of any public records may establish a reasonable fee for making copies which shall not exceed the actual cost of making such copies which shall not include the cost of staff time used in locating and copying the records. Where fees for copies of public records are specifically prescribed by law, such fees shall apply.

(3) Fees shall not be charged, however, under the following circumstances:

(a) The person requesting the record is an indigent individual.

(b) The records located are determined by the official custodian to be exempt from public disclosure.

(4) In situations where the fees for copies of public records will exceed twenty-five dollars ($25), the public agency may require prepayment of the anticipated cost of the records as a condition precedent to reproduction of the records.

Section 4. A new section of KRS Chapter 61 is created to read as follows:

(1) Each public agency shall adopt and publish rules and regulations in conformity with this Act and pertaining to the accessibility of public records. Such rules and regulations shall be consonant with the intent of this Act to provide full access to public records, to protect public records from damage or disorganization, and to prevent excessive interference with other essential functions of the agencies. Such rules and regulations shall provide for the fullest assistance to inquiries and the most timely possible action on requests for records or information. These rules and regulations shall serve as guidelines to the general public and they shall include but are not limited to:

(a) A current index providing identifying information as to any type of public record within the jurisdiction of the agency. Confidential records shall be identified and listed separately.

(b) The times and places such records are available.

(c) The persons from whom such records may be obtained.

(d) The fees, to the extent authorized by this Act or other statute, for copies of public records.

(e) The procedures to be followed in requesting public records.

(f) Appeal rights and procedures as set forth by this Act, should a person be denied access to any public record.

(g) Each amendment or revision to, or repeal of any of the foregoing.

(2) Each public agency shall display a copy of its rules and regulations pertaining to public records in a prominent location accessible to the public in every separate office maintained by the agency.

(3) A copy of these rules and regulations shall be furnished free of charge to any person upon request.

Section 5. A new section of KRS Chapter 61 is created to read as follows:

(1) The following public records shall be exempt from disclosure under the provisions of this statute:

(a) Information of a personal nature where the public disclosure thereof would constitute a clearly unwarranted invasion of personal privacy, unless the public interest by clear evidence requires disclosure in the particular instance.

(b) Records confidentially disclosed to an agency and compiled and maintained for the regulation of commercial enterprise, including trade secrets, or for the grant or review of a license to do business and if openly disclosed would permit an unfair advantage to competitors of the subject enterprise. This exemption shall not, however apply to records the disclosure or publication of which is directed by other statute.

(c) Public records pertaining to a prospective business or industry where no previous public disclosure has been made of the business' or industry's interest in locating in, relocating within or expanding within the Commonwealth. Provided, however, that this exemption shall not include those records pertaining to application to agencies for permits or licenses necessary to do business or to expand business operations within the state, except as provided in paragraph (b) above.

(d) The contents of real estate appraisals, engineering or feasibility estimates and evaluations made by or for a public agency relative to acquisition of property, until such time as all of the property has been acquired; provided, however, the law of eminent domain shall not be affected by this provision.

(e) Test questions, scoring keys and other examination data used to administer a licensing examination, examination for employment or academic examination before the exam is given or if it is to be given again.

(f) Records of law enforcement agencies or agencies involved in administrative adjudication, that were compiled in the process of detecting and investigating statutory or regulatory violations if the disclosure of the information would harm the agency by revealing the identity of informants not otherwise known or by premature release of information to be used in a prospective law enforcement action or administrative adjudication. Unless exempted by other provisions of this Act or by other statutes, public records exempted under this provision shall be open after enforcement action is completed or a decision is made to take no action. Provided, however, that the exemptions provided by this subsection shall not be used by the custodian of the records to delay or impede the exercise of rights granted by this Act.

(g) Preliminary drafts, notes, recommendations, and memoranda in which opinions are expressed or policies formulated or recommended, except that a specific record shall not be exempt when used by a public agency in connection with a public agency's action, or where the record or portion thereof contains material of a primarily factual nature.

(h) All public records or information the disclosure of which is prohibited by federal law or regulation.

(i) Public records or information the disclosure of which is prohibited or restricted or otherwise made confidential by Kentucky statute.

(2) No exemption in this section shall be construed to restrict disclosure of statistical information not descriptive of any readily identifiable person.

(3) If any public record contains material which is not exempt under this section, the public agency shall separate the exempt and make the non-exempt material available for examination.

(4) The provisions of this section shall in no way prohibit or limit the exchange of public records or the sharing of information between public agencies when the exchange is serving a legitimate governmental need or necessary in the performance of a legitimate government function.

Section 6. A new section of KRS Chapter 61 is created to read as follows:

(1) Each public agency, upon any request for records made under this Act, shall determine within three (3) days (excepting Saturdays, Sundays, and legal public holidays) after the receipt of any such request whether to comply with the request and shall notify in writing the person making the request, within the three (3) day period, of its decision. An agency response denying, in whole or in part, inspection of any record shall include a statement of the specific exemption authorizing the withholding of the record and a brief explanation of how the exemption applies to the record withheld. The response shall be issued by the official custodian or under his authority, and it shall constitute final agency action.

(2) A copy of the written response denying inspection of a public record shall be forwarded immediately by the agency to the Attorney General of the Commonwealth of Kentucky. If requested by the person seeking inspection, the Attorney General shall review the denial and issue within ten (10) days (excepting Saturdays, Sundays and legal public holidays) a written decision to the agency concerned, stating whether the agency acted consistent with provisions of this Act. A copy of the decision shall also be sent by the Attorney General to the person who requested the record in question. The burden of proof in sustaining the action shall rest with the agency and the Attorney General may request additional documentation from the agency for substantiation. The Attorney General may also request a copy of the records involved but they shall not be disclosed.

(3) Each agency shall notify the Attorney General of any actions filed against that agency in circuit court regarding the enforcement of this Act.

(4) In the event a person feels the intent of this Act is being subverted by an agency short of denial of inspection, including but not limited to the imposition of excessive fees or the misdirection of the applicant, the person may complain in writing to the Attorney General and the complaint shall be subject to the same adjudicatory process as if the record had been denied.

(5) If the Attorney General upholds, in whole or in part, the request for inspection, the public agency involved may institute proceedings within thirty (30) days for injunctive or declaratory relief in the circuit court of the district where the public record is maintained. If the Attorney General disallows the request or if the public agency continues to withhold the record notwithstanding the decision of the Attorney General, the person seeking disclosure may institute such proceedings.

Section 7. A new section of KRS Chapter 61 is created to read as follows:

(1) The circuit courts of this state shall have jurisdiction to enforce the purposes of this Act, by injunction or other appropriate order on application of any citizen of this state.

(2) In order for the circuit courts of this state to exercise their jurisdiction to enforce the purposes of this Act, it shall not be necessary to have forwarded any request for the documents to the Attorney General pursuant to Section 6, above, or for the Attorney General to have acted in any manner upon a request for his opinion.

(3) In any such action, the court shall determine the matter de novo and the burden of proof shall be on the public agency to sustain its action. The court on its own motion, or on motion of either of the parties, may view the records in controversy in camera before reaching a decision. Any noncompliance with the order of the court may be punished as contempt of court.

(4) Courts shall take into consideration the basic policy of this Act that free and open examination of public records is in the public interest and the exemptions provided for by this Act or otherwise provided for by law shall be strictly construed, even though such examination may cause inconvenience or embarrassment to public officials or others. Except as to causes the court considers of greater importance, proceeding arising under this section take precedent on the docket over all other causes and shall be assigned for hearing and trial at the earliest practicable date.

(5) Any person who prevails against an agency in any action in the courts seeking the right to inspect and copy any public record shall be awarded all costs, including reasonable attorney fees, incurred in connection with such legal action. If such person prevails in part, the court may in its discretion award him costs or an appropriate portion thereof. In addition, it shall be within the discretion of the court to award such person an amount not to exceed twenty-five dollars ($25) for each day that he was denied the right to inspect or copy said public record.

Section 8. A new section of KRS Chapter 61 is created to read as follows:

The Attorney General shall submit an annual report on or before September 1 to cover the preceding fiscal year to the Legislative Research Commission for referral to the appropriate committee. The report shall include:

(1) A compilation of the determinations made by agencies to deny inspection of records.

(2) A list of decisions issued by the Attorney General in regard to open records issues and the substance of the decision in each case.

(3) A list of court actions involving the enforcement of this Act.

Section 9. A new section of KRS Chapter 61 is created to read as follows:

Any person shall have access, to any public record maintained on him or in which he is mentioned by name, upon presentation of appropriate identification.

Section 10. A new section of KRS Chapter 61 is created to read as follows:

Any official of a public agency who violates the provisions of this Act shall be subject to dismissal or impeachment and in addition shall be guilty of a class B misdemeanor for each separate violation.

Section 11. KRS 171.650 is repealed.

The Committee Substitute for **HB 138** is as follows:

HB 138, AN ACT relating to public records.

WHEREAS, government is the servant of the people and not the master of them; and

WHEREAS, access to information concerning the conduct of the peoples' business is a fundamental and necessary right of every citizen in the Commonwealth of Kentucky.

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 61 IS CREATED TO READ AS FOLLOWS:

As used in this Act:

(1) "Public agency" means every state or local officer, state department, division, bureau, board, commission and authority; every legislative board, commission, committee and officer; every county and city governing body, council, school district board, special district board, municipal corporation, court or judicial agency, and any board, department, commission, committee, subcommittee, ad hoc committee, council or agency thereof; and any other body which is created by state or local authority in any branch of government or which derives at least twenty-five percent (25%) of its funds from state or local authority.

(2) "Public records" means all books, papers, maps photographs, cards, tapes, discs, recordings or other documentary materials regardless of physical form or characteristics, which are prepared, owned, used, in the possession of or retained by a public agency. "Public record" shall not include any records owned by a private person or corporation that are not related to functions, activities, programs or operations funded by state or local authority.

(3) "Official custodian" means the chief administrative officer or any other officer or employe of a public agency who is responsible for the maintenance, care and keeping of public records, regardless of whether such records are in his actual personal custody and control.

(4) "Custodian" means the official custodian or any authorized person having personal custody and control of public records.

SECTION 2. A NEW SECTION OF KRS CHAPTER 61 IS CREATED TO READ AS FOLLOWS:

(1) All public records shall be open for inspection by any person, except as otherwise provided by this Act and suitable facilities shall be made available by each public agency for the exercise of this right. No person shall remove original copies of public records from the offices of any public agency without the written permission of the official custodian of the record.

(2) Any person shall have the right to inspect public records during the regular office hours of the public agency. The official custodian may require written application describing the records to be inspected.

(3) If the person to whom the application is directed does not have custody or control of the public record requested, such person shall so notify the applicant and shall furnish the name and location of the custodian of the public record, if such facts are known to him.

(4) If the public record is in active use, in storage or not otherwise available, the official custodian shall immediately so notify the applicant and shall designate a place, time and date, for inspection of the public records, not to exceed three (3) days from receipt of the application, unless a detailed explanation of the cause is given for further delay and the place, time and earliest date on which the public record will be available for inspection.

(5) If the application places an unreasonable burden in producing voluminous public records or if the custodian has reason to believe that repeated requests are intended to disrupt other essential functions of the public agency, the official custodian may refuse to permit inspection of the public records. However, refusal under this section must be sustained by clear and convincing evidence.

SECTION 3. A NEW SECTION OF KRS CHAPTER 61 IS CREATED TO READ AS FOLLOWS:

(1) Upon inspection, the applicant shall have the right to make abstracts of the public records and memoranda thereof, and to obtain copies of all written public records. When copies are requested, the custodian may require a written request and advance payment of the prescribed fee. If the applicant desires copies of public records other than written records, the custodian of such records shall permit the applicant to duplicate such records, however, the custodian may ensure that such duplication will not damage or alter the records.

(2) The public agency may prescribe a reasonable fee for making copies of public records which shall not exceed the actual cost thereof not including the cost of staff required.

SECTION 4. A NEW SECTION OF KRS CHAPTER 61 IS CREATED TO READ AS FOLLOWS:

(1) Each public agency shall adopt rules and regulations in conformity with the provisions of this Act to provide full access to public records, to protect public records from damage and disorganization, to prevent excessive disruption of its essential functions, to provide assistance and information upon request and to insure efficient and timely action in response to application for inspection, and such rules and regulations shall include, but shall not be limited to:

(a) The principal office of the public agency and its regular office hours;
(b) The title and address of the official custodian of the public agency's records;
(c) The fees, to the extent authorized by this Act or other statute, charged for copies;
(d) The procedures to be followed in requesting public records.

(2) Each public agency shall display a copy of its rules and regulations pertaining to public records in a prominent location accessible to the public.

(3) The State Department of Finance and Administration may promulgate uniform rules and regulations for all state administrative agencies.

SECTION 5. A NEW SECTION OF KRS CHAPTER 61 IS CREATED TO READ AS FOLLOWS:

(1) The following public records are excluded from the application of this Act and shall be subject to inspection only upon order of a court of competent jurisdiction:

(a) Public records containing information of a personal nature where the public disclosure thereof would constitute a clearly unwarranted invasion of personal privacy.

(b) Records confidentially disclosed to an agency and compiled and maintained for scientific research, the regulation of commercial enterprise, including mineral exploration records , unpatented, secret commercially valuable plans, appliances, formulae, or processes, which are used for the making, preparing, compounding, treating, or processing of articles or materials which are trade commodities obtained from a person and which are generally recognized as confidential, or for the grant or review of a license to do business and if openly disclosed would permit an unfair advantage to competitors of the subject enterprise. This exemption shall not, however apply to records the disclosure or publication of which is directed by other statute.

(c) Public records pertaining to a prospective location of a business or industry where no previous public disclosure has been made of the business' or industry's interest in locating in, relocating within or expanding within the Commonwealth. Provided, however, that this exemption shall not include those records pertaining to application to agencies for permits or licenses necessary to do business or to expand business operations within the state, except as provided in paragraph (b) above.

(d) The contents of real estate appraisals, engineering or feasibility estimates and evaluations made by or for a public agency relative to acquisition of property, until such time as all of the property has been acquired; provided, however, the law of eminent domain shall not be affected by this provision.

(e) Test questions, scoring keys and other examination data used to administer a licensing examination, examination for employment or academic examination before the exam is given or if it is to be given again.

(f) Records of law enforcement agencies or agencies involved in administrative adjudication that were compiled in the process of detecting and investigating statutory or regulatory violations if the disclosure of the information would harm the agency by revealing the identity of informants not otherwise known or by premature release of information to be used in a prospective law enforcement action or administrative adjudication. Unless exempted by other provisions of this Act, public records exempted under this provision shall be open after enforcement action is completed or a decision is made to take no action. Provided, however that the exemptions provided by this subsection shall not be used by the custodian of the records to delay or impede the exercise of rights granted by this Act.

(g) Preliminary drafts, notes, correspondence with private individuals, other than correspondence which is intended to give notice of final action of a public agency;

(h) Preliminary recommendations, and preliminary memoranda in which opinions are expressed or policies formulated or recommended;

(i) All public records or information the disclosure of which is prohibited by federal law or regulation;

(j) Public records or information the disclosure of which is prohibited or restricted or otherwise made confidential by enactment of the General Assembly.

(2) No exemption in this section shall be construed to prohibit disclosure of statistical information not descriptive of any readily identifiable person.

(3) If any public record contains material which is not excepted under this section, the public agency shall separate the excepted and make the non-excepted material available for examination.

(4) The provisions of this section shall in no way prohibit or limit the exchange of public records or the sharing of information between public agencies when the exchange is serving a legitimate governmental need or is necessary in the performance of a legitimate government function.

SECTION 6. A NEW SECTION OF KRS CHAPTER 61 IS CREATED TO READ AS FOLLOWS:

(1) Each public agency, upon any request for records made under this Act, shall determine within three (3) days (excepting Saturdays, Sundays, and legal holidays) after the receipt of any such request whether to comply with the request and shall notify in writing the person making the request, within the three (3) day period, of its decision. An agency response denying, in whole or in part, inspection of any record shall include

a statement of the specific exception authorizing the withholding of the record and a brief explanation of how the exception applies to the record withheld. The response shall be issued by the official custodian or under his authority, and it shall constitute final agency action.

(2) A copy of the written response denying inspection of a public record shall be forwarded immediately by the agency to the Attorney General of the Commonwealth of Kentucky. If requested by the person seeking inspection, the Attorney General shall review the denial and issue within ten (10) days (excepting Saturdays, Sundays and legal holidays) a written opinion to the agency concerned, stating whether the agency acted consistent with provisions of this Act. A copy of the opinion shall also be sent by the Attorney General to the person who requested the record in question. The burden of proof in sustaining the action shall rest with the agency and the Attorney General may request additional documentation from the agency for substantiation. The Attorney General may also request a copy of the records involved but they shall not be disclosed.

(3) Each agency shall notify the Attorney General of any actions filed against that agency in circuit court regarding the enforcement of this Act.

(4) In the event a person feels the intent of this Act is being subverted by an agency short of denial of inspection, including but not limited to the imposition of excessive fees or the misdirection of the applicant, the person may complain in writing to the Attorney General and the complaint shall be subject to the same adjudicatory process as if the record had been denied.

(5) If the Attorney General upholds, in whole or in part, the request for inspection, the public agency involved may institute proceedings within thirty (30) days for injunctive or declaratory relief in the circuit court of the district where the public record is maintained. If the Attorney General disallows the request or if the public agency continues to withhold the record notwithstanding the opinion of the Attorney General, the person seeking disclosure may institute such proceedings.

SECTION 7. A NEW SECTION OF KRS CHAPTER 61 IS CREATED TO READ AS FOLLOWS:

(1) The circuit courts of this state shall have jurisdiction to enforce the purposes of this Act, by injunction or other appropriate order on application of any citizen of this state.

(2) In order for the circuit courts of this state to exercise their jurisdiction to enforce the purposes of this Act, it shall not be necessary to have forwarded any request for the documents to the Attorney General pursuant to Section 6, above, or for the Attorney General to have acted in any manner upon a request for his opinion.

(3) In any such action, the court shall determine the matter de novo and the burden of proof shall be on the public agency to sustain its action. The court on its own motion, or on motion of either of the parties, may view the records in controversy in camera before reaching a decision. Any noncompliance with the order of the court may be punished as contempt of court.

(4) Courts shall take into consideration the basic policy of this Act that free and open examination of public records is in the public interest and the exceptions provided for by this Act or otherwise provided for by law shall be strictly construed, even though such examination may cause inconvenience or embarrassment to public officials or others. Except as otherwise provided by law or rule of court, proceedings arising under this section take precedent on the docket over all other causes and shall be assigned for hearing and trial at the earliest practicable date.

(5) Any person who prevails against an agency in any action in the courts seeking the right to inspect and copy any public record may, upon a finding that the records were wilfully withheld in violation of this Act, be awarded all costs, including reasonable attorney fees, incurred in connection with such legal action. If such person prevails in part, the court may in its discretion award him costs or an appropriate portion thereof. In addition, it shall be within the discretion of the court to award such person an amount not to exceed twenty-five dollars ($25) for each day that he was denied the right to inspect or copy said public record. The costs or award shall be paid by such person or agency as the court shall determine is responsible for the violation.

SECTION 8. A NEW SECTION OF KRS CHAPTER 61 IS CREATED TO READ AS FOLLOWS:

Any person shall have access, to any public record relating to him or in which he is mentioned by name, upon presentation of appropriate identification, subject to the provisions of Section 5 of this Act.

SECTION 9. A NEW SECTION OF KRS CHAPTER 61 IS CREATED TO READ AS FOLLOWS:

(1) Any official of a public agency who wilfully conceals or destroys any record with the intent to violate the provisions of this Act shall be guilty of a Class A misdemeanor for each separate violation.

(2) Any official of a public agency who fails to produce any record after entry of final judgment directing that such records shall be produced shall be guilty of contempt.

Section 10. KRS 171.650 is repealed.

The Committee on State Government reported **HB 20,** with Committee Substitute and Committee Amendments attached thereto, with the expression of opinion that the same should pass. Ordered delivered to the Committee on Rules.

The Committee Substitute for **HB 20** is as follows:

HB 20, AN ACT relating to licensing of real estate agents.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 324 is created to read as follows:

Effective July 1, 1978, no real estate salesman licensed in Kentucky shall supervise another licensed salesman or manage a real estate office.

Section 2. A new section of KRS Chapter 324 is created to read as follows:

(1) Effective July 1, 1980 every applicant for initial licensure as a real estate broker shall have successfully completed not less than twenty-one (21) academic credit hours or the equivalent clock hours with at least twelve (12) hours in real estate courses from an accredited or approved real estate school and shall have been engaged in the real estate business in Kentucky as a licensed real estate salesman for a period of twenty-four (24) months prior to application.

(2) Effective July 1, 1980 every applicant for initial licensure as an associate broker shall have successfully completed nine (9) academic credit hours or equivalent clock hours in real estate courses from an accredited or approved real estate school and shall have been engaged in the real estate business in Kentucky as a licensed salesman for a period of twenty-four (24) months prior to application.

(3) Effective July 1, 1980 every applicant for initial licensure as a real estate salesman shall have successfully completed six (6) academic credit hours or equivalent clock hours in real estate courses from an accredited or approved real estate school.

Section 3. A new section of KRS Chapter 324 is created to read as follows:

The Commission may waive the immediate imposition of the requirements for licensure set out in Section 2 of this Act and may adopt by administrative regulation, in accordance with the provisions of KRS Chapter 13, a program for the gradual implementation of the requirements of Section 2 of this Act, which shall be in full force and effect by July 1, 1980.

(1) The requirements for applicants for a broker's license shall be increased as follows. The Commission may reduce the two-year experience requirement for applicants for a broker's license to one year if the applicant has attained an associate degree in real estate or a baccalaureate degree with a major in real estate:

(a) As of July 1, 1978—Not less than six (6) academic credit hours or equivalent clock hours in real estate courses from an accredited or approved real estate school and two (2) years experience prior to application as a real estate salesman.

(b) As of July 1, 1980—Not less than twenty-one (21) academic credit hours or equivalent clock hours with at least twelve (12) academic credit hours or equivalent clock hours in real estate courses from an accredited or approved real estate school and two (2) years experience prior to application as a real estate salesman.

(2) The requirements for applicants for an associate broker's license shall be implemented as follows:

(a) As of July 1, 1978—Not less than six (6) academic credit hours or equivalent clock hours in real estate courses from an approved or accredited real estate school and one (1) year experience prior to application as a real estate salesman.

(b) As of July 1, 1980—Not less than nine (9) academic credit hours or equivalent clock hours in real estate courses from an approved or accredited real estate school and two (2) years experience prior to application as a real estate salesman.

(3) The requirements for applicants for a salesman's license shall be increased as follows:

(a) As of July 1, 1978—Not less than three (3) academic credit hours or equivalent clock hours in real estate courses from an approved or accredited real estate school.

(b) As of July 1, 1980—Not less than six (6) academic credit hours or equivalent clock hours in real estate courses from an approved or accredited real estate school.

(4) For purposes of this Act, three (3) academic credit hours shall equal forty-eight (48) clock hours.

Section 4. A new section of KRS Chapter 324 is created to read as follows:

(1) On or after July 1, 1978, it shall be unlawful for any person to act as a real estate broker, associate broker or salesman or to advertise or assume to act as a real estate broker, associate broker or salesman within the Commonwealth of Kentucky without a license issued by the Kentucky Real Estate Commission.

(2) Nothing in this Act shall be construed as to require or permit the issuance of an associate broker's license prior to July 1, 1978.

Section 5. A new section of KRS Chapter 324 is created to read as follows:

Effective July 1, 1983 all persons who are now or may hereafter be licensed as a broker, associate broker or salesman shall, as a prerequisite to license renewal, submit evidence satisfactory to the Commission that such licensee has within the previous three (3) years completed three (3) continuing education units of instruction in real estate courses. Thereafter each licensee shall complete three (3) continuing education units every three (3) years as a condition upon such licensee's qualification for license renewal. One continuing education unit shall equal ten classroom hours of instruction in real estate courses approved by the Commission. Enrollment and attendance at any course of instruction shall be certified by the Commission upon a form provided by the Commission and shall be submitted by each licensee at the time he makes application to the Commission for the renewal of his license and the payment of his renewal fee. The Commission in its discretion may make exceptions to the continuing education requirements for such hardships or other extenuating circumstances as the Commission deems appropriate.

Section 6. A new section of KRS Chapter 324 is created to read as follows:

(1) Within two (2) years after the date a salesman's license is issued, such licensee shall successfully complete thirty (30) clock hours of classroom instruction in real estate practices at an approved or accredited real estate school. Upon completion of such instruction, each such person shall file with the Commission a certificate showing that he has successfully completed such instruction. If such instruction is not successfully completed within two (2) years, his license shall not be renewed on renewal date. The commission shall notify the broker with whom such salesman is associated, thirty (30) days prior to the renewal date, that such salesman's license will not be renewed. The requirement of thirty (30) clock hours of classroom instruction applies only to persons who are applicants for license for the first time and is not applicable to renewal of broker's, associate broker's or salesman's licenses.

(2) This section is repealed effective July 1, 1980.

Section 7. A new section of KRS Chapter 324 is created to read as follows:

(1) Every applicant for a broker's license shall have held a salesman's license for a period of twenty-four (24) months in this state prior to the date of said application, and must have been engaged in the real estate business for such a period of time, and shall apply in writing upon blanks prepared or furnished by the commission. If the applicant can furnish the commission a certificate from a resident college, university, or business school, accredited by appropriately recognized educational associations or chartered and licensed in the state of Kentucky, reflecting satisfactory completion of sixty (60) college hours or eighteen (18) months of resident classroom training, or four years of related business experience, then the requirements pertaining to holding a salesman's license for two (2) years shall be reduced to one (1) year and the applicant shall otherwise be eligible to apply for a broker's examination. The requirements for a salesman's (broker's) license shall not apply to any applicant who formerly held a broker's license in this or any other state nor to any person who has been actively engaged as a builder for a period of three (3) years.

(2) This section is repealed effective July 1, 1977.

Section 8. KRS 324.010 is amended to read as follows:

(1) As used in this chapter, unless the context requires otherwise:

(a) "Associate broker" means any person who for compensation or valuable consideration is employed directly or indirectly by a broker to perform all the functions authorized by a brokers license only for and on behalf of such employing broker including but not limited to authority to supervise other salesmen employed by a broker and manage an office on behalf of a broker.

(b) (a) "Association" means the National Association of *Realtors* Real Estate Boards .

(c) (b) "Broker" means any person who for *a fee, commission* compensation or *other* valuable consideration sells or offers for sale, buys or offers to buy, or negotiates the purchase or sale or exchange of real estate, or who leases or offers to lease, or rents or offers for rent, *or refers or offers to refer for the purpose of securing prospects,* any real estate or the improvements thereon for others, as a whole or partial vocation.

(d) (c) "Commission" means the *Kentucky* State Real Estate Commission.

(e) (d) "Real estate" includes leaseholds and other interests less than leaseholds.

(f) (e) "Salesman" means any person who for *a fee, commission,* compensation or *other* valuable consideration is employed either directly or indirectly by a broker to sell or offer to sell, or to buy or offer to

buy, or to negotiate the purchase or sale or exchange of real estate, or to lease *or negotiate leases thereof or to* , rent or offer for rent, *or to refer or offer to refer for the purpose of securing prospects* any real estate , or to negotiate leases thereof or of the improvements thereon *for others* as a whole or partial vocation.

(g) (f) "Approved real estate school" means a school that has been given a certificate of approval by the Kentucky Real Estate Commission and is currently in good standing.

(h) (g) "Accredited real estate school" means a college or university *accredited by appropriately recognized educational associations or chartered and licensed in Kentucky* that grants credit toward *an associate degree or a baccalaureate* a bachelor's degree to those students sucessfully completing a course in real estate.

(2) One act for a *fee, commission,* compensation or *other* valuable consideration of buying or selling real estate of or for another, or offering for another to buy, sell or exchange real estate, or leasing, renting or offering to rent real estate, *or referring or offering to refer real estate for the purpose of securing prospects* shall constitute the person performing, offering or attempting to perform such act *as* a broker, *associate broker* or a salesman.

Section 9. KRS 324.020 is amended to read as follows:

On or after *the effective date of this Act* July 1, 1956 , it shall be unlawful for any person , copartnership, association or corporation to act as a real estate broker or real estate salesman or to advertise or assume to act as such real estate broker or real estate salesman within the commonwealth of Kentucky, without a license issued by the Kentucky real estate commission.

Section 10. KRS 324.040 is amended to read as follows:

(1) Every *applicant* application for a license, whether as broker, *associate broker* or salesman, shall state whether or not the applicant has ever had any broker's, *associate broker's* or salesman's license revoked or suspended. It shall be accompanied by the license fee prescribed by KRS 324.070, but, if the commission does not issue the license, the fee shall be returned to the applicant. Every applicant for a license shall furnish a sworn statement setting forth his business and residence address.

(2) Every applicant for a broker's license shall apply in writing upon blanks prepared or furnished by the commission. He shall state the name of the person or company with which he will be associated in the business of real estate, and the location of the place for which the license is desired, and shall set forth the period of time, if any, during which he has been engaged in the real estate business.

(3) Every applicant for a salesman's *or associate broker's* license shall set forth the name and place of business of the company then employing him or into whose service he is about to enter.

(4) Every applicant for a broker's or salesman's license shall be at least eighteen years of age *and shall have attained a high school diploma or its equivalent.* After an applicant passes the required examination for a salesman's license , the commission shall issue a license to him. Within two years from the date such license is issued, the licensee shall successfully complete thirty clock hours of classroom instruction in real estate practices at an approved or an accredited real estate school. Upon completion of such instruction, each such person shall cause to be filed with the commission a certificate showing that he has successfully completed such instruction. If such instruction is not successfully completed within two years, his license shall not be renewed on renewal date. The commission shall notify the broker with whom such salesman is associated, thirty days prior to renewal date, that such salesman's license will not be renewed. The requirement of thirty clock hours of classroom instruction applies only to persons who are applicants for license for the first time and is not applicable to renewal of broker's or salesman's licenses.

(5) Notwithstanding any other provisions to the contrary in this chapter, upon application to the board, any person 60 or more years of age who has held a real estate salesman's license for not less than ten years immediately preceding his application shall be licensed as a real estate broker without taking the examination for a broker's license.

Section 11. KRS 324.045 is amended to read as follows:

(1) Licenses shall be granted only to persons who are trustworthy and competent to transact the business of a real estate broker, *associate broker* or salesman in such manner as to safeguard the interest of the public, and only after satisfactory proof of such qualifications has been presented to the commission.

(2) In addition to proof of honesty, truthfulness and good reputation of any applicant for a license, each applicant must pass a written examination conducted by said commission, or its authorized representative, which examination shall be of scope and wording sufficient in the judgment of the commission to establish the competency and trustworthiness of the applicant to act as a real estate broker, *associate broker* or salesman in such manner as to protect the interests of the public. Provided, however, no examination shall be required for the renewal of any present or future license unless such license has been revoked, suspended or is allowed to expire without renewal. The commission shall hold examinations at such times and places as it may determine, and an examination fee of $25.00 shall be collected from each applicant to defray the expenses of holding such examinations.

(3) The provisions of subsection (2) of this section requiring applicants to pass a written examination to obtain license shall not apply to real estate brokers or salesmen furnishing satisfactory proof to the commission that they were engaged in the business or occupation of a real estate broker or salesman on January 1, 1956, within the commonwealth of Kentucky, provided, however, that such real estate brokers and salesmen shall, on or before July 1, 1956, make application to the Kentucky real estate commission for a real estate broker or salesman's license in accordance with provisions of KRS 324.040 and provided further that each application shall be accompanied by a bond and license fee in accordance with the requirements of KRS 324.060 and 324.070.

(4) Every applicant for a broker's or salesman's license shall be at least eighteen (18) years of age, and shall have graduated from high school, or in the discretion of the commission, shall produce proof of an education equivalent to that of a high school graduate. Every applicant for a broker's license shall have held a salesman's license for a period of twenty-four (24) months in this state prior to the date of said application, and must have been engaged in the real estate business for such a period of time, and shall apply in writing upon blanks prepared or furnished by the commission. If the applicant can furnish the commission a certificate from a resident college, university, or business school, accredited by appropriately recognized educational associations or chartered and licensed in the state of Kentucky, reflecting satisfactory completion of sixty (60) college hours or eighteen (18) months of resident classroom training, then the requirements pertaining to holding a salesman's license for two (2) years shall be reduced to one (1) year and the applicant shall otherwise be eligible to apply for a broker's examination. The requirements for a salesman's license shall not apply to any applicant who formerly held a broker's license in this or any other state nor to any person who has been actively engaged as a builder for a period of three (3) years.

Section 12. KRS 324.070 is amended to read as follows:

The original fee for each real estate broker's *and associate broker's* license shall be ten dollars ($10.00) and the annual renewal fee shall be ten dollars ($10.00). The original fee for each real estate salesman's license shall be ten dollars ($10.00) and the annual renewal fee shall be five dollars ($5.00). Provided That when a copartnership, association or corporation shall have paid an original fee of ten dollars ($10.00) or a renewal fee of ten dollars ($10.00) and shall have designated one (1) of its members or officers as provided in KRS 324.110, the fees payable by any other member or officer actively engaged in the real estate business of such copartnership, association, or corporation shall be ten dollars ($10.00) for the first registration fee and five dollars ($5.00) for a renewal fee, for which a salesman's license shall be issued, but any such member or officer shall be entitled to a broker's license upon the payment of the usual fee therefor.

Section 13. KRS 324.080 is amended to read as follows:

The commission shall issue to each licensee a license in such form and size as shall be prescribed by the commission. This license shall show the name and address of the licensee and, in case of *an associate broker's or* a real estate salesman's license, shall show the name of the real estate broker by whom he is employed. Each license shall have imprinted thereon the seal of the commission, and in addition to the foregoing shall contain such matter as shall be prescribed by the commission. The license of each *associate broker or* real estate salesman shall be delivered or mailed to the real estate broker by whom such *associate broker or* real estate salesman is employed and shall be kept in the custody and control of such broker. It shall be the duty of each real estate broker to conspicuously display his license in his place of business.

Section 14. KRS 324.100 is amended to read as follows:

The commission shall prepare and deliver to each licensee a pocket card, which card among other things shall contain an imprint of the seal of the commission and shall certify that the person whose name appears thereon is a licensed real estate broker, *associate broker* or real estate salesman, as the case may be, and if it is *an associate broker or* a real estate salesman's card it shall contain the name and address of his employer. The matter to be printed on such pocket card, except as above set forth, shall be prescribed by the commission.

Section 15. KRS 324.110 is amended to read as follows:

(1) When a real estate broker's license is granted to any copartnership or association, consisting of more than one person, or to any corporation, this shall entitle the copartnership, association, or corporation to designate one of its members or officers, who upon compliance with the terms of this chapter shall, without payment of any fee other than the annual license fees provided for in KRS 324.070 and the fee for the Real Estate Education, Research and Recovery Fund as provided for in KRS 324.400, upon issuance of said broker's license, be entitled to perform all of the acts of a real estate salesman contemplated by this chapter. The persons so designated, however, must make application for a salesman's license, which application shall accompany the application of the real estate broker and be filed with the commission, at the same time. If in

any case the person so designated by a real estate broker shall be refused a license by the commission, or in case such person ceases to be connected with such real estate broker, said broker shall have the right to designate another person who shall make application as in the first instance.

(2) Each real estate broker's license which may be granted to an individual shall entitle such individual to perform all of the acts contemplated by this chapter without any application upon his part and without payment of any fee other than the real estate broker's annual fee, as provided for in KRS 324.070 and the fee for the Real Estate Education, Research and Recovery Fund as provided for in KRS 324.400.

Section 16. KRS 324.140 is amended to read as follows:

Every nonresident applicant shall file an irrevocable consent that suits and actions may be commenced against such applicant in the proper court of any county of this state in which a cause of action may arise in which the plaintiff may reside, by the service of any process or pleading authorized by the laws of this state on the secretary of the commission, said consent stipulating and agreeing that such service of such process or pleadings on said secretary shall be taken and held in all courts to be as valid and binding as if due service had been made upon said applicant in the state of Kentucky. *Any* Said instrument containing such consent shall be authenticated by the seal thereof, if a corporation, or by the acknowledged signature of a member or officer thereof, if otherwise. All such applications, except from individuals shall be accompanied by the duly certified copy of the resolution of the proper officers or managing board, authorizing the proper officers to execute the same. In case any process or pleadings mentioned in the case are served upon the secretary of the commission ,it shall be by duplicate copies, one (1) of which shall be filed in the office of the commission and the other immediately forwarded by certified mail, return receipt requested or by registered mail to the main office of the applicant against which said process or pleadings are directed.

Section 17. KRS 324.150 is amended to read as follows:

The commission may upon its own motion, and shall upon the verified written complaint of any person, investigate the actions of any broker, *associate broker* or salesman or any person who assumes to act in *such* either capacity, if the complaint, or complaint together with other evidence presented in connection with it, makes out a prima facie case. It may suspend or revoke any license for grounds stated in KRS 324.160.

Section 18. KRS 324.160 is amended to read as follows:

(1) The commission may suspend or revoke any license *or levy fines not to exceed five hundred dollars ($500) or both* for any of the following causes:

(a) Obtaining a license through false or fraudulent representation.

(b) Making any substantial misrepresentation.

(c) Making any false promises of a character likely to influence, persuade or induce.

(d) Pursuing a continued and flagrant course of misrepresentation or making false promises through agents or advertising or otherwise.

(e) Acting for more than one (1) party in a transaction without the knowledge of all parties for whom he acts.

(f) Accepting valuable consideration as a salesman *or associate broker* for the performance of any of the acts specified in this chapter, from any person, except his employer.

(g) Representing or attempting to represent a broker other than an employer, without the express knowledge and consent of the employer.

(h) Failing to account for or remit, within a reasonable time, any money belonging to others that comes into his possession.

(i) Paying valuable consideration to any person for services performed in violation of this chapter.

(j) Using the term "realtor" by one not a member of the association.

(k) Any other conduct that constitutes improper, fraudulent or dishonest dealing.

(2) No unlawful act or violation of any provision of this chapter by any salesman, *associate broker*, employe, partner or associate of a broker shall be cause for the revocation of the license of that broker, unless it appears to the satisfaction of the commission that he had guilty knowledge of it.

Section 19. KRS 324.170 is amended to read as follows:

The commission shall before denying an application for license or before suspending or revoking any license set the matter down for a hearing and at least twenty (20) days prior to the date set for the hearing it shall notify the applicant or licensee in writing, which said notice shall contain an exact statement of the charges made and the date and place of the hearing. The applicant or licensee in all hearings shall have the opportunity to be heard in person and by counsel in reference thereto. Such written notice may be served by delivery of same personally to the applicant or licensee or by mailing same by certified mail, return receipt requested or by registered mail to the last known business address of such applicant or licensee. If such applicant or licensee be *an associate broker or* a salesman the commission shall also notify the broker employing him or whose employ he is about to enter by mailing notice by certified mail, return receipt requested or by registered mail to the broker's last known business address. The hearing on such charges shall be at such time and place as the commission shall prescribe.

Section 20. KRS 324.230 is amended to read as follows:
The revocation of a broker's license shall automatically suspend every *associate broker or* real estate salesman's license granted to any person by virtue of his employment by the broker whose license has been revoked, pending a change of employer and the issuance of a new license. Such new license shall be issued without charge, if granted during the same year in which the original license was granted.

Section 21. KRS 324.281 is amended to read as follows:
(1) There is hereby created the *Kentucky* State Real Estate Commission. The Governor shall appoint three persons, each of whom, immediately prior to the date of his appointment has been a resident of the state for five years and whose vocation for a period of at least ten years shall have been that of a real estate broker, *associate broker* or a real estate salesman; one member shall be appointed for a term of one year; one member shall be appointed for a term of two years; one member shall be appointed for a term of three years; and until their successors are appointed and qualify, thereafter the term of the members of said commission shall be for three years and until their successors are appointed and qualify. The Kentucky Association of Realtors shall supply a list of not less than three names to the Governor each year from which appointments are to be made. There shall not be more than two of any one political party serving on the commission at the same time. Members to fill vacancies shall be appointed for the unexpired term.

(2) It shall be the duty of the commission to hold disciplinary hearings concerning matters in controversy as provided by this chapter; to conduct examinations for applicants eligible under this chapter; to conduct whenever deemed necessary certain educational seminars and courses directed toward continuing education within the real estate field; to investigate or cause to be investigated any irregularities in violation of this chapter or the promulgated and authorized rules and regulations of the commission; to participate with any other agency of the Commonwealth or the authorized agency of another state for the betterment or improvement of the administration of the statutes, rules or regulations governing this commission. Any action taken by the commission under this subsection shall be appealable as are other actions of the commission under this chapter.

Section 22. KRS 324.290 is amended to read as follows:
The commission shall at least *annually* semiannually publish a list of the names and addresses of all licensees licensed by it under the provisions of this chapter, and of all persons whose license has been suspended or revoked within one (1) year; together with such other information relative to the enforcement of the provisions of this chapter as it may deem of interest to the public. One (1) of such lists shall be mailed to the county clerk of each county of the state, and shall be held by the county clerk as a public record. Such lists shall also be mailed by the commission to any person in this state upon request.

Section 23. KRS 324.310 is amended to read as follows:
When any *associate broker or* real estate salesman shall be discharged or shall terminate his employment with the real estate broker by whom he is employed, it shall be the duty of such real estate broker to immediately deliver or mail by certified mail, return receipt requested or registered mail to the commission such *associate broker's or* real estate salesman's license. The real estate broker shall, at the time of mailing such *associate broker's or* real estate salesman's license to the commission, address a communication to the last known residence address of such *associate broker or* real estate salesman, which communication shall advise such *associate broker or* real estate salesman that his license has been delivered or mailed to the commission. A copy of such communication to the *associate broker or* real estate salesman shall accompany the license when mailed or delivered to the commission. It shall be unlawful for any *associate broker or* real estate salesman to perform any of the acts contemplated by this chapter either directly or indirectly under authority of said license from and after the date or receipt of the said license from said broker by the commission: Provided, That another license shall not be issued to such *associate broker or* real estate salesman until he shall return his former pocket card to the commission or shall satisfactorily account to it for the same. Provided, further, That not more than one (1) license shall be issued to any *associate broker or* real estate salesman for the same period of time.

Section 24. KRS 324.300 and 324.320 are hereby repealed.

The Committee on State Government reported **HB 30**, with Committee Substitute and Committee Amendments attached thereto, with the expression of opinion that the same should pass. Ordered referred to the Committee on Rules.

The Committee Amendment No. 1 to the Committee Substitute for **HB 30** is as follows:

Amend printed copy of Committee Substitute for **HB 30,** page 9, by deleting all of lines 9 through 12 and inserting in lieu thereof the following:

"Kentucky State Building Trades Council; and one member selected by the Governor from a list of four: two to be submitted by the Kentucky Association of Plumbing, Heating and Cooling Contractors, and two to be submitted by the Mechanical Contractors Association."

The Committee Amendment No. 2 to the Committee Substitute for **HB 30** is as follows:

Amend printed copy of Committee Substitute for **HB 30,** page 94, line 15, by inserting after the word "enact", a bracket (" ");

and on page 94, line 16, by inserting after the word "than" a bracket (" ");

and on page 94, line 22, by deleting the word "a" and by inserting therefor the following: "the";

and on page 103, line 2, by deleting all of line 2, and by inserting therefor the following: "than ten dollars ($10) nor more than one thousand";

and on page 103, line 3, by deleting the word "($10,000)" and by inserting therefor the following: "($1,000)".

The Committee on State Government reported **HB 149, HB 363, HB 437, HB 625** with Committee Amendments attached thereto, **HB 694, HJR 66, SB 100** with Committee Amendment attached thereto, **SB 118** with Committee Amendments attached thereto, and **SB 147** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 149, AN ACT relating to lobbying.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 6.250 is amended to read as follows:

As used in KRS 6.260 to 6.320 and in KRS 6.990*:* , "lobbyist" means any person employed as legislative agent or legislative counsel to promote, oppose or act with reference to any legislation which affects or may affect private pecuniary interests, as distinct from those of the whole people.

(1) "Lobbying" means communicating directly or soliciting others to communicate with any member of the general assembly with the purpose of influencing any legislative action;

(2) "Lobbyist" means any person who engages in lobbying with the exception of the following:

(a) Any public officer or public employe, including a member of the general assembly, acting within his official capacity;

(b) News media executives or their employes or agents, who, in the ordinary course of business, publish or broadcast news items, editorials or other comments or paid advertisements which directly or indirectly urge legislative action, if such persons engage in no other lobbying activities;

(c) Any person who confines his lobbying activities solely to communicating with the representative or senator elected from the representative or senatorial district in which the person resides;

(d) Any person who confines his lobbying activities solely to formal appearances to give testimony before public sessions of the general assembly or its committees;

(e) Any person who does not spend an amount in excess of one hundred dollars ($100) on lobbying activities during any session of the general assembly excluding the cost of his personal travel, lodging and meals, and who confines his lobbying activities to six (6) or fewer legislative contacts during a session of the general assembly;

(f) Any organization which does not spend an amount in excess of one hundred dollars ($100) on lobbying activities during any session of the general assembly and which confines its lobbying activities to six (6) or fewer legislative contacts during a session of the general assembly; and

(g) Persons engaged solely in drafting legislation.

(3) "Legislative contact" means any one (1) day during which a person communicates orally or in writing with one (1) or more members of the general assembly, other than the representative or senator elected

from the representative or senatorial district in which the person resides, and excluding any day in which the person confines his lobbying activities solely to formal appearances to give testimony before public sessions of the general assembly and its committees. It shall be considered prima facie evidence that an organization is making a legislative contact if any officer, employe or member of the organization makes a legislative contact with the purpose of influencing any legislative action that affects or may affect the organization's legislative program or that may reasonably be deemed to benefit the organization or its members.

Section 2. KRS 6.260 is amended to read as follows:

(1) No person shall appear as counsel before any committee of the general assembly or of either house, or act as lobbyist *during any session of the general assembly,* unless his name appears upon the docket provided for by KRS 6.280.

(2) No person shall employ *or otherwise designate* any *person to act as a* lobbyist whose name is not duly entered on the docket.

(3) No person shall be employed *or designated* as a lobbyist for a compensation dependent upon the passage or defeat of any proposed legislation, or upon any contingency connected with the action of the general assembly, either of its houses or any of its committees.

(4) No person shall render any service as lobbyist other than by appearing before a committee and doing work properly incident thereto.

Section 3. KRS 6.270 is amended to read as follows:

Every person employing *or otherwise designating* a lobbyist *to represent him* shall within one (1) week after employing *or designating* him, cause his name to be entered upon the legislative docket provided for by KRS 6.280. It *shall also be* is also the duty of the lobbyist to enter, or cause to be entered, his name upon the docket. Upon the termination of the employment *or designation,* that fact *shall* may be entered opposite the name of the lobbyist, by either the *lobbyist or the party which he represents* employer or the employe .

Section 4. KRS 6.280 is amended to read as follows:

The *board of ethics* attorney general shall prepare and keep a legislative docket, which shall be known as the "docket of *lobbyists*" legislative counsel or agents before committees" . In the docket shall be entered: The name, residence and occupation of each lobbyist, and the name and business address of *the person whom he represents* his employer ; the date of the employment or *designation as a lobbyist* agreement therefor ; the length of time that *his activities as a lobbyist are* the employment is to continue, if it can be determined; and the special subjects of legislation , if any, to which *his activities as a lobbyist relate* his employment relates . The docket shall be a public record and open to the inspection of any citizen upon demand at any time during the regular business hours of the office of the *board of ethics* attorney general . Whenever further subjects of legislation are introduced or arise which a lobbyist is to promote or oppose, *he* his employer shall make or cause to be made additional entries opposite his own name on the docket, stating the special employment and specifically referring to the petitions, orders, bills or other subjects of legislation to which *his additional lobbying activity* it relates , and shall also make an entry opposite the name of the lobbyist so as to show all the subjects of legislation in relation to which the lobbyist is *lobbying* employed .

Section 5. KRS 6.290 is amended to read as follows:

Each lobbyist *employed or designated to lobby on behalf of another person* shall file with the *board of ethics* attorney general , within ten (10) days after the date of his registration, a written authorization to act as lobbyist, signed by *the person he represents as a lobbyist* his employer .

Section 6. KRS 6.300 is amended to read as follows:

(1) Within thirty (30) days after the adjournment of *a session of* the general assembly, every person whose name appears upon the legislative docket of the session shall file with the *board of ethics* attorney general a complete and detailed statement, sworn to by the person making the statement, or in the case of a corporation *or other organization* by its president or treasurer, of all expenses paid or incurred by the maker of the statement in connection with the employment of lobbyists or the promoting or opposing of legislation. Statements shall be made in the manner prescribed by the *board of ethics* attorney general , and shall be open to public inspection.

(2) In addition to the report required by subsection (1) of this section, every person whose name appears on the legislative docket of a regular session of the general assembly shall file with the board of ethics three (3) periodic reports of expenses paid or incurred during the reporting period in promoting or opposing legislation. The first report required by this subsection shall cover the period of the first thirty (30) legislative days during regular sessions of the general assembly and shall be filed within five (5) calendar days after the

thirtieth legislative day. The second periodic report shall cover the period from the thirtieth legislative day through the fiftieth legislative day during regular sessions of the general assembly and shall be filed within five (5) calendar days after the fiftieth legislative day. The third periodic report shall cover the period of the last ten (10) legislative days during regular sessions of the general assembly and shall be filed at the same time as the report required by subsection (1) of this section. Each periodic report shall contain a complete and detailed statement, sworn to by the person making the statement, of all expenses paid or incurred by him during the period covered by the report in promoting or opposing legislation. The periodic reports shall be made in the manner prescribed by the board of ethics and shall be open to public inspection. For the purpose of this subsection, a "legislative day" means each calendar day excluding Sundays and legal holidays; and "the period covered by the report" means all calendar days occurring within each period of legislative days for which a periodic report is required.

Section 7. KRS 6.310 is amended to read as follows:

No lobbyist employed for a pecuniary consideration shall go upon the floor of either house of the general assembly while the house is in session, except upon the invitation of that house.

Section 8. A new section of KRS 6.250 to 6.320 is created to read as follows:

(1) It shall be the duty of the board of ethics to:

(a) Maintain the legislative docket provided for by KRS 6.280;

(b) Prescribe the manner in which the statements required by KRS 6.300 are to be made and provide persons required to make such statements with reporting forms;

(c) Investigate upon its own motion or upon sworn complaint by any person with good cause shown any alleged violation of KRS 6.250 to 6.320;

(d) Report the results of its investigations of alleged violations of KRS 6.250 to 6.320 to the attorney general;

(e) Prosecute any alleged violation of KRS 6.250 to 6.320 after investigation if the attorney general fails to prosecute the alleged violation.

(2) In conducting investigations under this Act, the board of ethics or any member of the board may exercise the subpoena powers granted to the board and its members by KRS 6.700.

Section 9. A new section of KRS 6.250 to 6.320 is created to read as follows:

(1) The attorney general, upon his own motion or upon notification by the board of ethics, shall prosecute any alleged violation of KRS 6.250 to 6.320.

(2) The circuit court of the district in which an alleged violation of KRS 6.250 to 6.320 occurred shall have jurisdiction in any action instituted under this Act.

Section 10. KRS 6.990 is amended to read as follows:

(1) If any employer of a lobbyist fails to make the reports required by KRS 6.300, or to *register* have the names of his lobbyists registered as required by KRS 6.270, he shall for the first offense be fined *ten dollars ($10) per day for each day he is in noncompliance* not more than one thousand dollars ($1,000) and for the second and each subsequent offense *he shall be fined twenty-five dollars ($25) per day for each day he is in noncompliance* not more than five thousand dollars ($5,000), and, if the offender is a corporation, its charter may be forfeited in the discretion of the court . *The lobbyist may prove in exculpation that his failure to register or report as required was unavoidable and due to circumstances beyond his control.*

(2) If any *person employing or otherwise designating a lobbyist to represent him as a lobbyist* officer of a corporation or association fails to make the reports required by KRS 6.300 or to have the names of *his* its lobbyists registered as required by KRS 6.270, he shall *for the first offense be fined twenty-five dollars ($25) per day for each day he is in noncompliance and for the second and each subsequent offense he shall* be fined not more than *five thousand dollars ($5,000)* one thousand dollars ($1,000), or confined in the county jail not more than one (1) year , *and, if the offender is a corporation, its charter may, for a second or subsequent offense, be forfeited in the discretion of the court.*

(3) If any lobbyist violates any of the provisions of KRS 6.260 to *KRS* 6.320, he shall be *guilty of a Class D felony* fined not more than five thousand dollars ($5,000) or confined in the penitentiary not more than five (5) years or both .

(4) Any person who enters into an agreement for compensation in violation of KRS 6.260(3) shall be fined not more than five hundred dollars ($500), or confined in the county jail not more than one (1) year, or both.

(5) Any lobbyist who fails to file the authorization required by KRS 6.290 shall be fined five dollars ($5) per day for each day he is in compliance. The lobbyist may prove in exculpation that his failure to file the authorization is unavoidable and due to circumstances beyond his control.

(6) Any lobbyist who violates KRS 6.310 shall, for each offense, be fined not more than two hundred fifty dollars ($250).

(7) (4) A violation of KRS 6.610 is punishable by a fine not to exceed $5,000, or imprisonment in a county jail for a term not to exceed one year, or both.

(8) (5) A violation of KRS 6.615, 6.620, or 6.625 is punishable by a fine not exceeding $500.

(9) (6) Any person who maliciously files with the board a false charge of misconduct on the part of any legislator or other person shall be fined not to exceed $5,000, or imprisoned in a county jail for a term not to exceed one year, or both.

HB 363, AN ACT relating to the Legislative Research Commission.

WHEREAS, it is the primary responsibility of the members of the general assembly to determine the nature of the legislation that is to be introduced in the Senate and House; and

WHEREAS, sponsorship and introduction by a member of the general assembly is required for all legislation acted upon before that body; and

WHEREAS, employes of the Legislative Research Commission are frequently and continuously requested to prepare legislation by citizens, registered legislative agents and other special interest groups; and

WHEREAS, the necessary time required to perform such acts of courtesy creates a burdensome workload on a limited staff; and

WHEREAS, the performance of such services other than at the request of a member of the general assembly is tantamount to infringement on the duties of the duly elected members; and

WHEREAS, the Legislative Research Commission is a statutory agency of Kentucky government created and maintained as the service arm of the general assembly it's ultimate responsibility is and should be to provide the best possible service to that body

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 7.100 is amended to read as follows:

It shall be the duty of the legislative research commission to:

(1) Maintain in the state Capitol for the use and information of the general assembly, a legislative reference room and working library, collect, summarize and index information of a legislative and governmental nature relating to legislation and legislative policies and index all bills introduced in the general assembly. Permanent office space for the legislative research commission and for the director thereof and employes or subcommittees shall be provided on the third floor of the state Capitol. When the general assembly is not in session, the commission shall have jurisdiction over the use of the house and senate chambers and over the allocation of all rooms used by the general assembly while in session. The commission may provide for such other office space as it may deem necessary.

(2) Make or cause to be made such investigations into statute law, legislation, governmental agencies and institutions and matters of public policy as will aid the general assembly in performing its duties in the most efficient and economical manner. In making such studies and investigations between the regular sessions of the general assembly, the commission shall give priority to those subjects requested by the general assembly.

(3) *Provide at the specific request of* Afford to any member of the general assembly or any committee of either house of the general assembly *only,* such information and assistance as may be practicable in the preparation of bills, memorials, resolutions, amendments, alterations and changes thereto and revisions and substitutes thereof, proposed to be introduced into the general assembly. *The commission shall adopt and have printed appropriate forms and procedures as it shall deem necessary for the implementation of such requests and services. Employes of the commission shall be prohibited from soliciting or procuring sponsors or co-sponsors for the above legislative acts or actions, whether at the request of a member of the general assembly or others. The provisions of this section shall be interpreted as not in conflict with those prescribed in KRS 7.095 relating to present or future publications and distribution of same, charging of appropriate fees or the disposition of said fees.*

(4) The commission, at the close of each legislative session, shall assume custody of all furniture, equipment, records, materials and supplies, and printed copies of bills in the possession of the clerks of the senate and house. Immediately prior to the convening of the next session, the commission shall transfer all furniture, equipment, materials and supplies to the clerks of the respective houses. The commission may, when the general assembly is not in session, authorize the expenditure of funds appropriated to the general assembly for the purchase, repair or maintenance of furniture, equipment, materials and supplies and contract for services needed by the general assembly.

(5) The commission shall prepare and publish or contract for the preparation and publishing of a daily index and digest of the content of and legislative action on all measures introduced in the general assembly.

(6) After each election the commission shall conduct a pre-session orientation conference for members of the general assembly.

HB 437, AN ACT relating to the establishment of a commission for the blind.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 163 IS CREATED TO READ AS FOLLOWS:

The purpose of this Act is to provide for a separate and specialized agency for the blind to provide for and improve the rehabilitation of the blind and visually impaired citizens of the Commonwealth of Kentucky in order that they may increase their social and economic well-being and the productive capacity of the commonwealth and the nation.

SECTION 2. A NEW SECTION OF KRS CHAPTER 163 IS CREATED TO READ AS FOLLOWS:

As used in this Chapter unless the context otherwise requires:

(1) "Commission" means the commission for the blind.

(2) "Legally blind" means a visual acuity of 20/200 or less in the better eye with correction or a visual field of 20 degrees or less.

(3) "Visually impaired" means a visual acuity of 20/60 or less in the better eye with the correction or when the visual field is limited to 60 degrees or less.

(4) "Executive director" means the executive director of the commission for the blind.

SECTION 3. A NEW SECTION OF KRS CHAPTER 163 IS CREATED TO READ AS FOLLOWS:

(1) There is created within the education and the arts cabinet the commission for the blind.

(2) The commission shall consist of five (5) persons appointed by the governor upon the recommendation of the secretary of the education and the arts cabinet. At least three commission members shall be legally blind. One member shall be appointed for a term of two years; two members shall be appointed for a term of three years each and two members shall serve a term of four years each. Thereafter, commission members shall be appointed to serve a term of four years each. If a commission member is unable to serve his appointed term, the governor shall appoint another person to serve the remainder of the term. Commission members shall serve without compensation but shall receive subsistence and travel expenses as allowed by law to employes of the commonwealth.

(3) The commission shall elect a chairperson to serve for two years or until a successor is named. The commission shall meet at least once every three months. The chairperson may call other meetings as deemed necessary. A majority of the commission shall constitute a quorum for all business. The chairperson shall notify the members by registered mail of meetings at least three days prior to the meeting.

(4) The commission shall be the state agency responsible for all rehabilitation services for the blind and the visually impaired and other services as deemed necessary. The commission shall be the agency authorized to receive all state and federal funds designated for rehabilitation services for the blind and visually impaired. The commission is, also, authorized to receive gifts and bequeaths for the benefit of rehabilitation services for the blind and visually impaired.

(5) All records, equipment and personnel presently under the division of vocational rehabilitation services for the blind which includes the Kentucky business enterprises program and the Kentucky industries and rehabilitation center for the blind, and the division of special and technical aids for the blind, under the jurisdiction of the bureau of rehabilitation services, department of education, shall be transferred to the commission. All funds budgeted to the division of vocational rehabilitation services for the blind, the Kentucky business enterprises program, the Kentucky industries and rehabilitation center for the blind and the division of special and technical aids for the blind shall be transferred to the commission. The state treasurer is designated as the custodian of all funds and shall make disbursements for rehabilitation purposes upon certification by the executive director.

(6) The commission shall establish a citizens advisory committee of not less than fifteen (15) persons nor more than thirty (30) persons. There shall be state-wide representation. Leaders of the known organizations of the blind shall be included. The advisory committee shall advise the commission and the executive director. No commission employe shall be a member of the committee. Members of the committee shall serve without compensation, but shall be reimbursed for actual expenses incurred in service on the committee.

(7) The commission shall hire an executive director. The executive director shall serve as full-time administrator and as secretary to the commission. The executive director shall be experienced in work with the blind. Preference shall be given to hiring a qualified blind person as executive director.

(8) The commission shall establish and implement policies and procedures for the carrying out of the program of services for the blind.

(9) At the close of each fiscal year, the commission shall prepare a financial report and present it to the secretary of the education and the arts cabinet and to the governor. The annual report shall be published. The annual report shall, also, contain a precise review of the work of the commission and contain necessary suggestions for improvement.

(10) The commission shall coordinate its functions with other appropriate public and private agencies.

(11) The commission shall perform all other duties as required of it by law.

(12) There shall be created under the authority of the commission an office of the ombudsman to hear client grievances. A complaint review and hearing process shall be established by the commission and administered by the ombudsman. This process shall be explained to all commission clients during their first contact with the agency.

(13) The executive director shall hire personnel as necessary to carry out the work of the commission and the provisions of this Act. Preference shall be given to hiring qualified blind persons. Hiring and promotional personnel practices shall not be discriminatory because of age, sex, race, physical disability or national origin. Commission employes shall receive compensation and travel expenses as allowed other employes of the commonwealth.

(14) There shall be created under the authority of the commission, to be directed by the executive director, a division of field services which shall provide intake and rehabilitation counseling services.

(15) There shall be created under the authority of the commission, to be directed by the executive director, a division of technical services which shall distribute or sell technical aids, talking book machines, educational aids and other aids to the blind. This division shall provide educational materials such as recorded texts, braille or large type texts or such other materials as may be deemed necessary for the education of the blind. This division shall conduct research into the development of new technical and educational aids for the blind.

(16) There shall be established under the authority of the commission to be directed by the executive director, a division of business enterprises. This division shall include the vending facilities program and shall promote the development of other small businesses. In connection therewith the commission shall be authorized to own, lease, manage, supervise and operate vending facilities and other business enterprises for use or benefit of blind persons in federal, state, private and other buildings. The share of expenses of this program to be charged to each enterprise shall not exceed three percent of the gross receipts of such enterprise above the amount of one hundred twenty-five dollars ($125) gross sales per week, the first one hundred twenty-five dollars ($125) per week being exempt from any such fee. One or more facility placement agents shall be employed to locate and establish additional vending facilities. The commission for the blind shall make such surveys as may be deemed necessary to determine the vending facility opportunities for blind persons in state buildings or on other property owned, leased or otherwise occupied by the state government and may install vending facilities in suitable locations on such property for the use of the blind. All of the net income from vending machines which are on the same property as a vending facility shall be paid to the blind operator of the vending facility. Whenever there exists a conflict of interest between state agencies seeking to vend merchandise on the same state property, the agencies shall negotiate a fair agreement which will protect the interest of both from unreasonable competition. Such agreements shall be submitted to the custodial authority having jurisdiction over the property for approval. Provided, however, that in all situations the operator shall be permitted to vend all items of merchandise customarily sold at similar vending facilities.

(17) There shall be established under the authority of the commission, to be directed by the executive director, a division of the rehabilitation center for the blind which shall provide mobility training, work evaluation, personal adjustment and other services as needed for the blind adult. The rehabilitation center shall, also, serve blind adults who have other disabilities.

(18) There shall be established under authority of the commission, to be directed by the executive director, a division of industries for the blind which shall provide industrial evaluation and training and home industries. Emphasis shall be on placement in public employment rather than long-term sheltered employment at industries for the blind.

(19) There shall be established under the authority of the commission, to be directed by the executive director, a division of employment services which shall promote the employment of the blind in the public and the private sectors. This division shall coordinate its activities with the division of field services, the division of business enterprises, the division of rehabilitation center for the blind and the division of industries for the blind.

(20) The commission shall provide staff services which shall include fiscal management, staff development and training, program development and evaluation, public information office and such other staff services as may be deemed necessary.

Section 4. KRS 42.075 is amended to read as follows:
Where the products of the blind produced under the supervision and direction of the *division of* Kentucky industries for the blind *under the commission for the blind,* meet the requirements of state offices, departments, institutions and agencies of the commonwealth as to quality, quantity and price, such products shall have preference in all purchases by and for such state offices, departments, institutions and agencies. The price charged for the products shall, in no case, exceed the price quoted to other consumers. *The commission for the blind within the education and the arts cabinet* The bureau of rehabilitation services in the department of education shall, from time to time, cause to be made available to the executive department for finance and administration, lists of the products of the *division of* Kentucky industries of the blind.

Section 5. KRS 163.140 is amended to read as follows:
The state board of education, upon recommendation of the superintendent of public instruction, shall prescribe rules and regulations governing the services, personnel, and administration of the state rehabilitation agency *and* ; may enter into reciprocal agreements with other states to provide for the rehabilitation of residents of the states concerned ; may establish and supervise the operation of vending stands operated by the blind, and vending stands and other small businesses established pursuant to KRS 163.110 to 163.180 to be conducted by severely handicapped persons .

Section 6. KRS 163.036, 163.150, 163.220, 163.230 and 163.240 are repealed.

HB 625, AN ACT relating to state retirement systems.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 16.505 is amended to read as follows:
As used in KRS 16.505 to 16.645, unless the context otherwise requires:

(1) "System" means the state police retirement system created by KRS 16.505 to 16.645;

(2) "Board" means the board of trustees of the Kentucky retirement systems;

(3) "Employer" or "state police" means the bureau of state police, or its successor;

(4) "Current service" means the number of years and completed months of employment as an employe subsequent to July 1, 1958, for which creditable compensation was paid by the employer and employe contributions deducted except as otherwise provided in KRS 16.541;

(5) "Prior service" means the number of years and completed months of employment as an employe prior to July 1, 1958, for which creditable compensation was paid to the employe by the commonwealth;

(6) "Service" means the total of current service and prior service;

(7) "Accumulated contributions" at any time means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the member's contribution account, together with interest credited on such amounts as provided in KRS 16.505 to 16.645, and any other amounts the member shall have contributed thereto, including interest credited thereon;

(8) "Creditable compensation" means all salary and wages paid to the employe as a result of services performed for the employer; living allowances, expense reimbursements, payments received after the date of termination of employment for accrued vacation leave, and other such items as are determined by the board shall be excluded;

(9) "Final compensation" at any time means the creditable compensation of a member during the five (5) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during such five (5) year period multiplied by twelve (12); such five (5) years may be fractional, and need not be consecutive. In the event the number of months of service credit during such five (5) year period is less than forty-eight (48), one or more additional fiscal years shall be used;

(10) "Final rate of pay" means the actual rate upon which earnings of a member were calculated during the twelve (12) month period immediately preceding the member's effective retirement date. Such rate shall be certified to the board by the employer and the following equivalents shall be used to convert said rate to an annual rate: 1,950 hours, 260 days, 52 weeks, 12 months, or one year;

(11) "Retired member" means any member entitled to receive benefits under the provisions of KRS 16.505 to 16.645;

(12) "Retirement allowance" means the retirement payments to which a retired member is entitled;

(13) "Actuarially equivalent benefits" means benefits which are of equal value when computed upon the basis of such actuarial tables as are adopted by the board except in case of disability retirement the

beneficiary options *authorized by KRS 61.635* payable shall be computed by adding ten (10) years to the age of the member, *provided however, that no disability retirement option shall be less than the same option computed under early retirement*;

(14) "Authorized leave of absence" means any time during which a person is absent from employment but retained in the status of an employe in accordance with the personnel policy of the bureau of state police;

(15) "Normal retirement date" means the first day of the month following or coinciding with a member's fifty-fifth birthday, except that for members over age fifty-five (55) on July 1, 1958, it shall mean January 1, 1959. A member with thirty (30) or more years of service credit at least fifteen (15) of which are current may declare his "normal retirement date" to be some date prior to his fifty-fifth birthday;

(16) "Disability retirement date" means the first day of the month following total and permanent disability or partial disability;

(17) "Dependent child" means a child en ventre sa mere and a natural or legally adopted child of the member who has neither attained age eighteen (18) nor married or who is an unmarried full-time student, as defined in the Federal Social Security Act, who has not attained age twenty-two (22);

(18) "Optional allowance" means an actuarially equivalent benefit elected by the member in lieu of all other benefits provided by KRS 16.505 to 16.645;

(19) "Disability ratio" means that percentage determined by the board as being applicable to the degree of disability suffered or incurred by a member;

(20) "Act in line of duty" means an act occurring or a thing done, which, as determined by the board, was required in the performance of duty;

(21) "Early retirement date" means the retirement date declared by a member who is not less than fifty (50) years of age and has twenty (20) years of service;

(22) "Member" means any officer included in the membership of the system as provided under KRS 16.520 whose membership has not been terminated under KRS 61.535; and

(23) "Regular full-time officers" means the occupants of positions as set forth in KRS chapter 18 as provisional full-time, probationary full-time and permanent full-time.

Section 2. KRS 16.520 is amended to read as follows:

(1) Membership in the system shall consist of all regular full-time officers of the Kentucky state police appointed pursuant to KRS 16.050 who are entitled to exercise the powers of peace officers.

(2) A member with five (5) or more years of service credit in the state police retirement system who accepts regular full-time employment with the bureau of state police in a position ordinarily included in the Kentucky employes retirement system may, upon the recommendation of the state police personnel board and approval of the board of trustees of the retirement systems, elect to retain membership in the state police retirement system.

(2) (3) After July 1, 1958, no *No* person who is age thirty-one (31) or over shall be eligible to become an employe of the Kentucky state police.

(4) Reciprocal rights provided for in subsection (2) of this section may be exercised retroactively by a member in service on or after July 1, 1968.

Section 3. KRS 16.541 is amended to read as follows:

(1) Any person who *prior to July 1, 1976,* left the state police or its predecessor in order to enter the armed forces of the United States and who is re-employed by the state police after the effective date of the system is entitled to have credited as current service his period of service in such armed forces, not to exceed six (6) years, provided he applies for reinstatement within two (2) years of discharge, which must be honorable, or within two (2) years of a subsequent termination of any total disability, and, subject to the approval of the state police personnel board, is re-employed.

(2) Any person who prior to the effective date of the system left the state police or its predecessor in order to enter the armed forces of the United States and who was re-employed within two (2) years after his honorable discharge therefrom prior to the effective date of the system shall be entitled to have credited as service his period of service in the armed forces, not to exceed six (6) years.

(3) Any member upon completion of five (5) years of service shall receive current service for a maximum of four (4) years for his period of service in the armed forces of the United States, if his discharge therefrom is honorable and he has not been credited with such service under subsections (1) and (2) of this section provided he pays *thirty-five percent (35%)* the current employe contribution ratio of the cost of such service based on the formula adopted by the board; however, members who were taken prisoner by a hostile power at any time during their active military service shall receive current service credit without payment of the *thirty-five percent (35%)* current employe contribution ratio . The payment by the member shall be deposited to his individual member's account. The remaining *sixty-five percent (65%)* ratio of contributions shall be paid by the state from funds appropriated specifically for such purpose and these payments shall be deposited to the retirement allowance account. If no funds are available in the special

appropriation account the board shall not accept employe payments until such time funds are available in the account.

Section 4. KRS 16.543 is amended to read as follows:

(1) Employe contributions shall be deducted from the creditable compensation of each member of the retirement system in the active employment of the bureau of state police of the department of justice as an officer as defined in KRS 16.520. Service credit shall be allowed for each month such member receives creditable compensation for an average of 100 hours or more of work per month. If the average number of hours of work is less than 100 per month, the member shall be allowed credit only for those months he receives creditable compensation for 100 hours of work.

(2) Contributions shall not be made and no service will be earned while on authorized leave except:

(a) A member shall be entitled to service credit in accordance with KRS 16.541; and

(b) A member on educational leave, approved by the department of personnel, who is receiving 75% or more of full salary, shall receive service credit and shall pay member contributions in accordance with KRS 16.545 and his employer shall pay employer contributions in accordance with KRS *61.565* 16.551 . If a tuition agreement is broken by the member, the member and employer contributions paid during the period of educational leave shall be refunded.

(3) The retirement office, upon detection, shall refund erroneous employer and employe contributions made to the retirement system.

Section 5. KRS 16.576 is amended to read as follows:

(1) A member shall terminate employment on his normal retirement date.

(2) Any member with at least five (5) years of service credit may retire at his normal retirement date, or subsequent thereto, upon written notification to the board, setting forth at what time the retirement is to become effective, provided that such effective date shall be after his last day of service and subsequent to the filing of such notice.

(3) The member shall have the right to elect to have his retirement allowance payable under *subsection (4) of this section or* any one (1) of the plans set forth in *KRS 61.635* this section . In addition to the optional forms of annuities permitted under this section, the board may establish such additional optional forms of annuities as it deems desirable. Such additional forms of annuities shall be based on actuarially equivalent benefits, with due regard to selection against the fund. The member shall not have the right to revoke such election after the initial benefit payment has been drawn by the state treasurer.

(4) The member may elect to receive an annual retirement allowance, payable monthly during his lifetime, equal to two and fifteen-hundredths per cent (2.15%) of final compensation for each year of service credit.

(5) The member may elect to receive a decreased monthly retirement allowance during his lifetime and have one-half (1/2) of such retirement allowance continued after his death to his beneficiary during the lifetime of such person. Such benefit payments shall be actuarially equivalent to the retirement allowance payable under subsection (4) of this section.

(6) The member may elect to receive a monthly retirement allowance payable for ten (10) years certain, actuarially equivalent to the retirement allowance payable under subsection (4) of this section. If the member should become deceased prior to the expiration of ten (10) years, his beneficiary shall receive the remaining payments monthly for the duration of the ten (10) years.

(7) The member may elect to receive a decreased monthly retirement allowance during his lifetime and have such retirement allowance continued after his death to his beneficiary during the lifetime of such person. Such benefit payments shall be actuarially equivalent to the retirement allowance payable under subsection (4) of this section.

(5) (8) Notwithstanding any other provisions of this section, upon written notification to the board, a member shall have the option to defer his election to receive his retirement allowance. The retirement allowance payable under a deferred option shall be increased to reflect the deferred receipt of benefits.

Section 6. KRS 16.578 is amended to read as follows:

(1) If a member, eligible to retire on benefits payable as provided in KRS 16.576, dies at any time before the first benefit payment has been drawn by the state treasurer and has on file with the board at the time of his death a written designation of a beneficiary, then said beneficiary may elect to receive an annual benefit payable monthly which shall be equal to the benefit that would have been paid had the member retired immediately prior to his date of death and elected to receive payments under subsection *(2) of KRS 61.635* (7) of KRS 16.576 or the said beneficiary may elect the actuarial equivalent payable for one hundred twenty (120) months certain.

(2) If a member in active employment or on authorized leave of absence with *five (5)* eight (8) or more years of service dies at any time before his normal retirement date and has on file with the board at the

time of his death a written designation of a beneficiary, then said beneficiary may elect to receive an annual benefit payable monthly commencing in the month following the member's death which shall be equal to the benefit the member would have been entitled to receive, based on his age, years of service and final compensation at the date of his death, had the member been eligible for retirement and had he chosen benefits payable under subsection *(2) of KRS 61.635* (7) of KRS 16.576 or the said beneficiary may elect the actuarial equivalent payable for one hundred twenty (120) months certain.

(3) If a member, not in active employment nor on authorized leave of absence with twelve (12) or more years of service, dies at any time before his normal retirement date and has on file with the board at the time of his death a written designation of a beneficiary, then said beneficiary may elect to receive an annual benefit payable monthly commencing in the month following the member's death which shall be equal to the benefit the member would have been entitled to receive, based on his age, years of service and final compensation at the date of his death, had the member been eligible for retirement and had he chosen benefits payable under subsection *(2) of KRS 61.635* (7) of KRS 16.576 or the said beneficiary may elect the actuarial equivalent payable for one hundred twenty (120) months certain.

(4) An alternative calculation of benefits payable to the beneficiary under subsection (1) or (2) or (3) of this section shall be determined by computing an annual benefit payable commencing in the month following the member's death which shall be equivalent to the benefit the member would have been entitled to receive based on his years of service and final compensation at the date of his death reduced by the *survivorship* fifty per cent (50%) joint and survivor factor as provided for in KRS *61.635(4)* 16.576(5) , then reduced by fifty per cent (50%) and the actuarial equivalent payable for one hundred twenty (120) months certain shall be determined.

(5) The highest monthly benefit determined under subsection (1) or (2) or (3) or (4) of this section for a life annuity or for payments for one hundred twenty (120) months certain shall be tendered to the beneficiary.

Section 7. KRS 16.580 is amended to read as follows:

(1) Total and permanent disability as used in KRS 16.505 to 16.645 shall mean such disability as results in a member's incapacity to engage in any occupation for remuneration or profit, which disability is the result of bodily injury or disease. Loss by severance of both hands at or above the wrists, or both feet at or above the ankles, or one (1) hand above the wrist and one (1) foot at or above the ankle, or the complete, irrevocable loss of the sight of both eyes shall be considered as total and permanent disability.

(2) Notwithstanding the provisions of subsection (1) of this section, no injury shall be deemed to be disability if such injury results directly or indirectly from:

(a) Injury intentionally self-inflicted while sane or insane; *or*

(b) Injury or disease resulting from military service; or

(c) Disease suffered or contracted prior to date of employment as an employe of the employer.

(3) Total and permanent disability shall be deemed to cease in event a retired member receiving a benefit by reason of total and permanent disability engages in gainful occupation or work of any sort or if the board determines from medical examination that the member is able to engage in gainful occupation or work of any sort.

Section 8. KRS 16.581 is amended to read as follows:

(1) In the event disability is total and permanent as provided in KRS 16.580 and occurs on or after July 1, 1968 as a direct result of an "act in line of duty," the member in service shall retire on his disability retirement date and shall be eligible to receive retirement benefits as follows:

(a) For the disabled member benefits as provided under subsection (2) of this section, except that there shall be no service requirement for eligibility except that the member be employed and the monthly retirement allowance payable shall not be less than twenty-five per cent (25%) of the member's monthly final rate of pay.

(b) For each dependent child of the member on his disability retirement date, who is alive at the time any particular payment is due a monthly payment equal to ten per cent (10%) of the disabled member's monthly final rate of pay, however, total maximum dependent children's benefits shall not be greater than forty per cent (40%) of the member's monthly final rate of pay.

(2) In the event disability is total and permanent as provided in KRS 16.580 and is not a direct result of an "act in line of duty," the member in service with five (5) years of service credit shall retire on his disability retirement date and shall be eligible to receive benefits under subsections *(3)* (4) to *(4)* (7) of KRS 16.576 except that service credit shall be added to the member's total service beginning with his last date of paid employment and continuing to his fifty-fifth (55th) birthday, however, the maximum service credit added shall not exceed the total service the member had upon his last day of paid employment, and the maximum combined service credit for calculating his disability retirement allowance, including total service and added service shall not exceed twenty (20) years, except when the member has accumulated total service of twenty (20) or more years his total service shall be used in computing disability benefits.

(3) No benefit provided in this section shall be reduced as a result of any change in the extent of disability of any retired member who is age fifty-five (55) or over.

Section 9. KRS 16.586 is amended to read as follows:

(1) Partial disability as used in KRS 16.505 to 16.645 shall mean such disability as results in a member's incapacity to continue as an employe of the employer, and which disability has incapacitated such member and is the result of bodily injury or disease. The board shall have full power and exclusive authority to determine the existence of partial disability; it shall establish by appropriate findings utilizing consistent procedures, including services of an examiner, the disability ratio applicable to such disabled member.

(2) Notwithstanding the provisions of subsection (1) of this section, no injury shall be deemed to be disability if such injury results directly or indirectly from:

(a) Injury intentionally self-inflicted while sane or insane; *or*

(b) Injury or disease resulting from military service; or

(c) Disease suffered or contracted prior to date of employment as an employe of the employer.

(3) In the event the board determines that total and permanent disability of a member receiving benefits under subsection (1) of KRS 16.581 has ceased in accordance with the *definition of disability in* provision of KRS 16.580, then said member shall be deemed to have a partial disability, provided the conditions set out in subsection (1) of this section apply to the member.

Section 10. KRS 16.645 is amended to read as follows:

The following subjects shall be administered in the same manner subject to the same limitations and requirements, as provided for the Kentucky employes retirement system as follows:

(1) Cessation of membership, as provided for by KRS 61.535;

(2) Medical examiners, as provided for by KRS 61.665;

(3) Actuarial bases, as provided for by KRS 61.670;

(4) Duties of the employer, as provided for by KRS 61.675;

(5) Exemption of benefits of the system for taxation as provided for by KRS 61.690;

(6) *Retirement allowance increase as provided for by KRS 61.691* Effect of false statement and falsification of records, as provided for by KRS 61.700 ;

(7) *Hospital and medical benefit program as provided for by Section 32 of this Act* Penalties as provided for by KRS 61.990 ;

(8) Beneficiaries to be designated by member, change, rights, as provided for by KRS 61.542;

(9) Years of service credit, as provided for by KRS 61.545;

(10) *Refund of contributions, death after retirement, as provided by KRS 61.630* Uninvested funds, maximum, as provided by KRS 61.585 ;

(11) Custodian of fund, payments made, when, as provided for by KRS 61.660;

(12) Credit for service prior to membership date, as provided for by KRS 61.526;

(13) Transfer of dormant accounts, as provided for by KRS 61.626;

(14) Member's account, confidential, as provided for by KRS 61.661;

(15) Cessation of membership, loss of benefits, as provided for by KRS 61.550;

(16) Correction of errors in records, as provided for by KRS 61.685;

(17) Maximum disability benefit, as provided for by KRS 61.607;

(18) Retirement application procedure, effective retirement date as provided for by KRS 61.590 (2) to (7) ;

(19) Employer contributions as provided for by KRS 61.565; and

(20) Reinstatement of lost service credit as provided for by KRS 61.552*;* .

(21) Sick leave service credit as provided for by Section 33 of this Act;

(22) Calculation of retirement allowance as provided for by KRS 61.595(3) to (4);

(23) Reciprocal arrangement between systems, as provided by KRS 61.680; and

(24) Refund of contributions, conditions, as provided by KRS 61.625.

Section 11. KRS 61.510 is amended to read as follows:

As used in KRS 61.510 to 61.700, unless the context otherwise requires:

(1) "System" means the Kentucky employes retirement system created by KRS 61.510 to 61.700;

(2) "Board" means the board of trustees of the system as provided in KRS 61.645;

(3) "Department" means any state department or board or agency participating in the system in accordance with appropriate executive order, as provided in KRS 61.520. For purposes of KRS 61.510 to 61.700, the members, officers and employes of the general assembly and any other body, entity or instrumentality designated by executive order by the governor, shall be deemed to be a department notwithstanding whether said body, entity or instrumentality is an integral part of state government;

(4) "Examiner" means the medical examiner or examiners as provided in KRS 61.665;

(5) "Employe" means the members, officers and employes of the general assembly and every regular full-time appointed or elective officer or employe of a participating department, including the department of military affairs. The term shall not, however, include persons engaged as independent contractors, seasonal, emergency, temporary and part-time workers. In case of any doubt, the board shall determine if a person is an employe within the meaning of KRS 61.510 to 61.700;

(6) "Employer" means a department or any authority of such department having the power to appoint or select an employe in such department, including the senate and the house of representatives;

(7) "State" means the commonwealth of Kentucky;

(8) "Member" means any employe who is included in the membership of the system or any former employe whose membership has not been terminated under KRS 61.535;

(9) "Service" means the total of current service and prior service as defined herein;

(10) "Current service" means the number of years and months of employment as an employe, on and after July 1, 1956, (except that for members, officers and employes of the general assembly this date shall be January 1, 1960) for which creditable compensation is paid and employe contributions deducted except as otherwise provided in KRS 61.552(7) and KRS 61.555 (1) , and each member, officer and employe of the general assembly shall be credited with a month of current service for each month he occupies such position during a legislative biennium subsequent to January 1, 1960;

(11) "Prior service" means the number of years and completed months, expressed as a fraction of a year, of employment as an employe, prior to July 1, 1956, for which creditable compensation was paid; except that, for members, officers and employes of the general assembly this date shall be January 1, 1960. An employe shall be credited with one (1) month of prior service only in those months he received compensation for at least one hundred (100) hours of work; provided, however, that each member, officer and employe of the general assembly shall be credited with a month of prior service for each month he occupied such position during a legislative biennium prior to January 1, 1960;

(12) "Accumulated contributions" at any time means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the members' contribution account, together with interest credited on such amounts, and any other amounts the member shall have contributed thereto, including interest credited thereon;

(13) "Creditable compensation" means all salary, wages and fees paid to the employe as a result of services performed for the employer, except that for members of the general assembly it shall mean an assumed salary of *$18,000* $15,000 per annum which shall include per diem and expense payments authorized by KRS chapter 6. The creditable compensation of members, officers and employes of the general assembly shall be calculated as having been received in equal amounts for each month of the biennium. In cases where compensation includes maintenance and other perquisites, the board shall fix the value of that part of the compensation not paid in money.

(14) "Final compensation" of a member means the creditable compensation of the member during the five (5) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that five (5) year period multiplied by twelve (12). Said five (5) years may be fractional and need not be consecutive. In the event the number of months of service credit during such five (5) year period is less than forty-eight (48), one or more additional fiscal years shall be used;

(15) "Final rate of pay" means the actual rate upon which earnings of an employe were calculated during the twelve (12) months period immediately preceding the member's effective retirement date. Such rate shall be certified to the board by the employer and the following equivalents shall be used to convert said rate to an annual rate; 1,950 hours, 260 days, 52 weeks, 12 months, one year;

(16) "Retirement allowance" means the retirement payments to which a member is entitled;

(17) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of such actuarial tables as are from time to time adopted by the board except in cases of disability retirement the beneficiary options *authorized by KRS 61.635* shall be computed by adding ten (10) years to the age of the member, *provided however, that no disability retirement option shall be less than the same option computed under early retirement*;

(18) "Normal retirement date" means the sixty-fifth birthday of a member unless otherwise provided in KRS 61.510 to 61.700;

(19) "Fiscal year" of the system means the twelve (12) months from July 1, through the following June 30;

(20) "Officers and employes of the general assembly" means the occupants of those positions enumerated in KRS 6.150 and the assistants if employed by the general assembly for at least six (6) legislative bienniums; and

(21) "Regular full-time positions" as used in KRS 61.510(5) shall mean all positions as set forth in KRS chapter 18 as provisional full-time, probationary full-time and permanent full-time, all positions of local health departments meeting the definitions as set forth in KRS chapter 18 of provisional full-time, probationary full-

time and permanent full-time and all other positions except:

(a) Seasonal positions, which although temporary in duration, are positions which coincide in duration with a particular season or seasons of the year and which may recur regularly from year to year;

(b) Emergency positions which are positions which do not exceed thirty (30) working days and are nonrenewable;

(c) Temporary positions which are positions of employment with a participating department for a period of time not to exceed six (6) months in any event and not renewable;

(d) Part-time positions which are positions which may be permanent in duration, but which require less than an annual or fiscal year average of one hundred (100) hours of work per month in the performance of duty; .

(22) "Delayed contribution payment" means an amount paid by an employe for current service obtained under KRS 61.552. Such amount shall be determined using the same formula adopted by the board for purchase of service under KRS 61.552(7) except the employe shall pay a single payment of 50% of the total cost of such service with no cost to the employer. A delayed contribution payment shall be deposited to the member's contribution account and considered as accumulated contributions of the individual member;

(23) "Parted employer" means a department, portion of a department, board or agency (such as Outwood Hospital and School) which previously participated in the system, but due to lease, or other contractual arrangement is now operated by a publicly held corporation or other similar organization, and therefore, no longer participating in the system.

Section 12. KRS 61.525 is amended to read as follows:

Membership in the system shall consist of the following:

(1) All persons who become employes of a participating department after the date such department first participates in the system; and

(2) All persons who are employes of a department on the date the department first participates in the system, either in service or on authorized leave from service, and who elect within thirty (30) days following such department's participation, or in the case of persons on authorized leave, within thirty (30) days of their return to active service, to become members and thereby agree to make contributions as provided in KRS 61.510 to 61.700; and

(3) All persons who are employes of any credit union whose membership is limited to employes of state government; .

(4) All persons who were professional staff employes of the council on public higher education or the higher education assistance authority and were contributing to the system on the effective date of executive order 74-762 or 75-964 respectively and file a written election of their desire to continue in the system; and

(5) All persons who were professional staff employes of the Kentucky authority for educational television on and after July 1, 1974.

Section 13. KRS 61.541 is amended to read as follows:

(1) The *creditable compensation* official income of fee officers who receive salary or fees or maintenance or other perquisites as a result of their official duties is the gross amount thus received decreased by the cost of salary paid deputies and clerks and the cost of office supplies and other official expenses.

(2) Each such officer shall estimate the amount of *creditable compensation* official income he expects to receive during a calendar year and shall report and pay employe contributions monthly on one-twelfth (1 12) of such estimated *creditable compensation* official annual income .

(3) On or before April 30 of each fiscal year, each such officer shall file with the retirement office a report of his actual *creditable compensation* official income during the previous calendar year. This report shall be in the form of an affidavit and shall be used by the retirement system as a basis of adjusting the individual's account in the retirement system.

(4) The retirement office shall make a calculation of the amount of the additional contributions due or the excess contributions paid during the previous calendar year. In the event additional contributions are due, both the officer and employer shall pay such contributions on or before June 30 of the year in which the recalculation was made. In the event the recalculation shows that excess contributions have been paid both the officer and the employer shall be reimbursed the amount of overpayment.

(5) Retirement allowances which might otherwise be due such an officer shall be withheld until the provisions of this section have been fully met.

Section 14. KRS 61.542 is amended to read as follows:

(1) Prior to retirement:

(a) Each member shall designate a principal beneficiary and may designate a contingent beneficiary. This designation shall remain in full force and effect until change by the member *except, a final divorce decree terminates an ex-spouse's status as beneficiary, unless the member redesignates the ex-spouse as beneficiary subsequent to the issuance of the divorce decree;*

(b) In the event the death of the principal beneficiary precedes the death of the member, the contingent beneficiary becomes the principal beneficiary provided the member has not filed a notification of retirement with the board; and

(c) In the event the deaths of the principal beneficiary and the contingent beneficiary precede the death of the member, the estate of the member becomes the beneficiary provided the member has not filed a notification of retirement with the board.

(2) Subsequent to retirement:

(a) The beneficiary designated by the member on his notification of retirement supersedes the designation of any previous beneficiary. If the death of this beneficiary precedes the date the first benefit payment has been drawn by the state treasurer, the member may designate another beneficiary; and

(b) A member shall not have the right to change his beneficiary after the first benefit payment has been drawn by the state treasurer. The estate of the retired member becomes the beneficiary if the date of death of the beneficiary precedes or coincides with the date of death of the retired member or if the retired member had designated a spouse and they were divorced on the date of the retired member's death.

(3) In the event a beneficiary is convicted of a crime against the member, the beneficiary shall not be eligible for any benefits from the member's account, and the member's estate shall become the beneficiary.

Section 15. KRS 61.543 is amended to read as follows:

(1) Employe contributions shall be deducted each payroll period from the creditable compensation of each employe of an agency participating in the retirement system while he is classified as regular full-time as defined in KRS 61.510 (5) and (20) unless such person did not elect to become a member as provided by subsection (2) of KRS 61.525. Service credit will be allowed for each month such contributions are deducted during a fiscal or calendar year, provided the member receives creditable compensation for an average of one hundred (100) hours or more of work per month. If the average number of hours of work is less than one hundred (100) per month, the member shall be allowed credit only for those months he receives creditable compensation for one hundred (100) hours of work.

(2) Employe contributions shall not be deducted from the creditable compensation of an employe while he is seasonal, emergency, temporary or part-time. No service credit will be earned.

(3) Contributions shall not be made and no service credit will be earned by a member while on leave except:

(a) A member on military leave shall be entitled to service credit in accordance with KRS 61.555; and

(b) A member on educational leave, approved by the department of personnel, who is receiving 75% or more of full salary, shall receive service credit and shall pay employe contributions in accordance with KRS 61.560 and his employer shall pay employer contributions in accordance with KRS 61.565. If a tuition agreement is broken by the member the member and employer contributions paid during the period of educational leave shall be refunded.

(4) The retirement office, upon detection, shall refund erroneous employer and employe contributions made to the retirement system.

Section 16. KRS 61.552 is amended to read as follows:

(1) Any employe of a department participating in the Kentucky employes retirement system, or any employe of an agency participating in the county employes retirement system, or any member of the state police retirement system, or any active contributing member of the teachers' retirement system *or a contributing member of the judicial retirement system or an employe of a parted employer* whose employment has previously been terminated and who has been refunded his accumulated contributions, thereby losing service credit, may regain such credit by paying to the system from which he received the refund *or refunds* the amount *or amounts* refunded with interest at a rate determined by the board of the respective retirement system provided, however, the provisions of KRS 161.470 must be met in order to regain such credit in the teachers' retirement system. *Such payment including interest as determined by the board shall be deposited to the member's contribution account and considered as accumulated contributions of the individual member.*

(2) Any employe of a county participating in the county employes retirement system or any former county employe who is an employe of a participating department in the Kentucky employes retirement system *or a contributing member of the state police retirement system, teachers' retirement system, or judicial retirement system* who did not elect membership in the county employes retirement system as provided in subsection (2) of KRS 78.540 may obtain credit for prior service and for current service by paying to the county employes retirement system *a delayed contribution payment for* the *service* contribution he would have *received* paid had he elected membership based on the assumption that his employer did not elect the alternate participation plan, with interest at the rate determined by the board and an additional sum equal to fifty per cent (50%) of this amount. The payment of the fifty per cent (50%) sum shall be considered as accumulated contributions of the individual member .

(3) Any employe of a participating department or any former state employe who is an employe of a county participating in the county employes retirement system *or a contributing member of the state police retirement system, teachers' retirement system or judicial retirement system* who did not elect membership in the Kentucky employes retirement system as provided in subsection (2) of KRS 61.525 may obtain credit for prior service and for current service by paying to the system *a delayed contribution payment for* the *service* contribution he would have *received* paid had he elected membership with interest at the rate determined by the board and an additional sum equal to fifty per cent (50%) of this amount. The payment of the fifty per cent (50%) sum shall be considered as accumulated contributions of the individual member .

(4) An employe of a participating department which did not participate in the system effective July 1, 1956, or any former state employe who is an employe of a county participating in the county employes retirement system *or a contributing member of the state police retirement system, teachers' retirement system or judicial retirement system* may obtain credit for current service between July 1, 1956, and the effective date of participation of his department by paying to the system *a delayed contribution payment for* the *service* contribution he would have *received* paid had his department participated on July 1, 1956 , with interest at the rate determined by the board and an additional sum equal to fifty per cent (50%) of this amount. The payment of the fifty per cent (50%) sum shall be considered as accumulated contributions of the individual member .

(5) An employe of a county participating in the county employes retirement system which did not participate in the system effective July 1, 1958, or any former county employe who is an employe of a department participating in the Kentucky employes retirement system *or a contributing member of the state police retirement system, teachers' retirement system or judicial retirement system* may obtain credit for current service between July 1, 1958, and the effective date of participation of his county by paying to the county employes retirement system *a delayed contribution payment for* the *service* contribution he would have *received* paid had his county participated on July 1, 1958 , with interest at the rate determined by the board and an additional sum equal to fifty per cent (50%) of this amount. The payment of the fifty per cent (50%) sum shall be considered as accumulated contributions of the individual member .

(6) *Effective January 1, 1975, service* Service credit obtained under subsections (1) to (5) of this section shall be disallowed *and the recontribution of refund including interest as determined by the board and the delayed contribution payment, if any, shall be paid to the member, upon request, or in the event of his death to his properly designated beneficiary* if the member does not obtain *for service performed* six (6) months additional current service credit in either the Kentucky employes retirement system, county employes retirement system, state police retirement system, or teachers' retirement system, *judicial retirement system, or as an employe of a parted employer* , after the date such rights under this section have been exercised .

(7) (a) Effective July 1, 1973, any county participating in the county employes retirement system may purchase current service, between July 1, 1958 and participation date of the county, for present employes of the county who were employes on the participation date of the county and elected coverage under KRS 78.540(2).

(b) Effective July 1, 1973, any department participating in the Kentucky employes retirement system may purchase current service between July 1, 1956 and participation date of the department, for present employes of the department who were employes on the participation date of the department and elected coverage under KRS 61.525(2).

(c) Cost of the service credit purchased under this subsection shall be determined by computing the discounted value of the additional service credit based on an actuarial formula recommended by the board's consulting actuary and approved by the board. A department shall make payment for such service credit within the same fiscal year in which the option is elected. The county shall establish a payment schedule subject to approval by the board for payment of such service credit. The maximum period allowed in a payment schedule shall be ten (10) years with interest at the rate actuarially assumed by the board; however, a shorter period is desirable and the board may approve any schedule provided it is not longer than a ten (10) year period.

(d) If a county or department elects the provisions of this subsection any present employe who would be eligible to receive service credit under the provisions of this subsection and has purchased service credit under subsections (4) or (5) of this section shall have his payment for such service credit refunded with interest at the rate paid under KRS 61.575 or KRS 78.640.

(e) Any payments made by a county or department under this subsection shall be deposited to the retirement allowance account of the proper retirement system and these funds shall not be considered accumulated contributions of the individual members.

(8) Interest paid by a member of the Kentucky employes retirement system, county employes retirement system, or state police retirement system under this section or other similar statutes under KRS 16.505 to 16.652 or 61.510 to 61.692 or 78.510 to 78.852 prior to the effective date of this Act shall be credited to the individual member's contribution account in the appropriate retirement system and considered as accumulated contributions of the member.

Section 17. KRS 61.555 is amended to read as follows:

(1) *Prior to July 1, 1976, any* Any employe entering the armed forces of the United States after he first participates in the system, being on leave of absence from service and not withdrawing his accumulated contributions, shall be entitled to have credited as current service his period of service in the armed forces of the United States, not to exceed six (6) years, if his discharge therefrom is honorable and he is re-employed within two (2) years after discharge, or upon the subsequent termination of any total disability which existed at the expiration of the two (2) years after discharge.

(2) Any member of the system who, prior to the date he first participated in the system, terminated his employment in order to enter the armed forces of the United States and who was or is re-employed within two (2) years after his honorable discharge therefrom, or upon the subsequent termination of any total disability which existed at the expiration of the two (2) years after discharge, shall be entitled to have credited as prior service his period of service in the armed forces, not to exceed six (6) years.

(3) Any national guard technician involuntarily serving on active military duty during the period between January 26, 1968, and January 1, 1970, who completes his eight (8) years service while on military duty during this period, shall have that portion of his service, necessary to the completion of eight (8) years current service, credited to his account, as current service without having to meet the re-employment criteria.

(4) Any employe *eligible for retirement as* upon completion of the minimum service prescribed in KRS 61.559 *or any employe upon completion of five (5) years of service* shall receive current service for a maximum of four (4) years for his period of service in the armed forces of the United States, if his discharge therefrom is honorable and he has not been credited with such service under subsections (1) to (3) of this section provided he pays thirty-five percent (35%) of the cost of such service based on the formula adopted by the board. The payment by the member shall be deposited to his individual member's account. The remaining sixty-five percent (65%) shall be paid by the state from funds appropriated specifically for such purpose and these payments shall be deposited to the respective retirement allowance accounts. If no funds are available in the special appropriation account the board shall not accept employe payments until such time funds are available in the account.

(5) A member eligible to purchase military service under subsection (4) of this section shall receive current service credit for military service as provided under subsection (4) of this section without payment of the current employe contribution ratio if such member was taken prisoner by a hostile power at any time during their active military service.

Section 18. KRS 61.557 is amended to read as follows:

(1) Inasmuch as the take-over of the Kentucky state employment service by the federal government, through its United States employment service and war manpower commission, was recognized by both federal and state governments as a temporary measure during the war emergency, and the said employment service was, in fact, returned to the state government at the close of the emergency period, the employes of said service are recognized as employes of the commonwealth for the purposes of KRS 61.510 to 61.700 during the period of control by the federal government, just the same as if they had been employed in another department of the government of the commonwealth during that period.

(2) Should a parted employer rejoin a department as a result of the cancellation of a contract or lease arrangement, thereby causing each employe thereof to again become an employe as defined in KRS 61.510(5) the board is hereby authorized to negotiate with the publicly held corporation or other similar organizations for payment for the years of service credit under the system for all employes working on the date the contract or other lease arrangement is cancelled in order to avoid an impairment in the retirement benefits of said employes, provided any payment accepted by the board for such service is based on a formula consistent with the provisions of KRS 61.552(7).

Section 19. KRS 61.559 is amended to read as follows:

(1) The minimum service *required for a retirement allowance determined under KRS 61.595* credit for a member who earns a month of service credit in the month he becomes sixty-five (65) years of age or in some month thereafter, shall be forty-eight (48) months, at least twelve (12) of which are current service.

(2) A member who does not earn a month of service credit in the month be comes sixty-five (65) years of age or in some month thereafter is eligible for a retirement allowance determined under KRS 61.595 upon attainment of age 65 or a retirement allowance determined under KRS 61.595 prior to age 65 provided:

(a) The member has attained age 55 and has service of sixty (60) months at least twelve (12) of which are current service; or

(b) The member is a retired member of the state police retirement system, has attained age 55, and has service of forty-eight (48) months at least twelve (12) of which are current service; or

(c) The member has thirty (30) or more years of service at least fifteen (15) of which are current service; or

(d) The member has attained age 55 and was an employe of a parted employer at the time his employer became ineligible to continue participation in the system, and his service in the system when added to his service with the parted employer subsequent to his separation from state government equals the early retirement service eligibility requirement of the system on the date his employer became ineligible to continue participation in the system.

(2) The minimum service credit for a member who does not earn a month of service credit in the month he becomes sixty-five (65) years of age or in some month thereafter, shall be one hundred and eighty (180) months at least twelve (12) of which are current service unless the member is a retired member of the state police retirement system in which case the minimum service shall be forty-eight (48) months at least twelve (12) of which are current service. Notwithstanding the provisions of this subsection, the minimum of one hundred and eighty (180) months shall be decreased by one (1) month for each month that the member's current service exceeds twelve (12).

Section 20. KRS 61.590 is amended to read as follows:

(1) Any member with the minimum service credit prescribed in KRS 61.559 may retire on or after his fifty-fifth birthday upon written notification to the board.

(1) (2) A member or beneficiary eligible to receive retirement benefits under any of the provisions of KRS 61.510 to 61.990 and 78.510 to 78.990 and 16.505 to 16.552 shall file with the board on the form prescribed by the board, notification of retirement, giving his name, address, social security number, last day of employment and such other information as the board may require.

(2) (3) Within ten (10) days of the receipt of the notification of retirement form, the board shall cause to be prepared an estimate of the amounts the member or beneficiary may expect to receive under the various plans available to the member or beneficiary. This information shall be recorded on a form entitled, estimated retirement allowance, and forwarded to the member or beneficiary.

(3) (4) The member or beneficiary shall return the form entitled, estimated retirement allowance, to the retirement office after he has checked the plan of his choice, signed the document and had his signature witnessed. A member or beneficiary may not select a different plan after the first retirement allowance payment has been drawn by the state treasurer.

(4) (5) A member *or beneficiary* choosing *a monthly payment* to retire under the basic plan shall file his birth certificate or other acceptable evidence of date of birth. In the event a survivorship plan is chosen, proof of dates of birth of the beneficiary and member shall be filed.

(5) (6) The effective date of normal retirement and disability retirement shall be the first month following the month in which employment was terminated *from a regular full-time position. The effective date of disability retirement shall be the first month following the month in which the member's last day of paid employment occurred.* The effective date of early retirement shall be the first month following the month the notification of retirement form is filed with the retirement office, provided employment has been terminated.

(6) (7) The effective date of a deferred retirement option as provided under KRS 16.576*(5)* (8) shall be the month following age sixty-five (65), or the month following written notification from the member that he wishes to begin receiving retirement payments. In the event of the death of a member who has deferred his retirement allowance, the effective date of retirement shall be the month following the member's death.

(7) Notwithstanding the provisions of KRS 16.578 or 61.640, the effective date of a beneficiary's retirement allowance under normal, early or disability retirement shall be as prescribed in subsection (5) or (6) of this section should the member die before the first retirement allowance has been drawn by the state treasurer and his beneficiary be eligible for payments under KRS 16.578 or 61.640.

Section 21. KRS 61.592 is amended to read as follows:

(1) "Hazardous position" means any position whose principal duties involve active law enforcement, active fire suppression or prevention, or other positions, including but not limited to pilots of the department of transportation, with duties that require frequent exposure to a high degree of danger or peril and also require a high degree of physical conditioning;

(2) Each employer shall certify to the board in the manner prescribed by the board, the names of all employes deemed by the employer, to be working in a hazardous position as defined in subsection (1) of this section. The certification of the employer shall bear the approval of the agent or agency responsible for the budget of the department *or county* indicating that the required employer contributions have been provided for in the budget of the employing department *or county.* The board shall determine whether the names certified by the employer are working in positions meeting the definition of a hazardous position as provided by subsection (1) of this section;

(3) (a) An employe determined by the board to be working in a hazardous position in accordance with subsection (2) of this section shall contribute for each pay period for which he receives compensation, seven per cent (7%) of his creditable compensation;

(b) Each employer shall pay employer contributions based on the creditable compensation of the employes determined by the board to be working in a hazardous position at the employer contribution rate as determined by the board. Such rate will be determined by actuarial methods consistent with the provisions of KRS 61.565.

(4) The normal retirement age, retirement allowance and other benefits, eligibility requirements, rights and responsibilities of a member in a hazardous position, as prescribed by subsections (1), (2) and (3) of this section, and the responsibilities, rights and requirements of his employer shall be as prescribed for a member and employer participating in the state police retirement system as provided for by KRS 16.505 to 16.652, except the mandatory retirement provisions of KRS 16.576(1) and the maximum employment age in KRS 16.520(2) shall not be applicable;

(4) Except as provided in subsection (5) of this section, the retirement allowance of a member eligible to retire with service credit earned while serving in a hazardous position shall be based on the benefits of the state police retirement system as indicated below for the period during which contributions were paid as provided under subsection (3) of this section, and the remainder of his benefit shall be based on the provisions of KRS 61.510 to 61.700 and 78.510 to 78.990. Provisions of the state police retirement system are:

(a) Normal retirement as provided in KRS 16.576 (2) to (8).

(b) Disability retirement as provided in KRS 16.580 to 16.596 except that in determining benefits under KRS 16.581(2) service credit shall be added to the employes total service beginning with his last day of paid employment and continuing to his normal retirement date rather than his fifty-fifth (55th) birthday.

(c) Death in line of duty as provided in KRS 16.601.

(d) Death before retirement as provided in KRS 16.578.

(e) Early retirement as provided in KRS 16.577, however, the member must have attained age fifty-five (55).

(5) Notwithstanding the provisions of subsection (4) of this section the normal retirement age for a member occupying a hazardous position shall be based on the number of months that the member has paid contributions in accordance with subsection (3) of this section and employer contributions have been paid on his behalf as provided under subsection (3) of this section.

The following schedule shall be used to determine a member's normal retirement date as provided in this subsection:

Number of months' contributions paid as a hazardous position:	Normal retirement age:
12	64
24	63
36	62
48	61
60	60

(6) The maximum employment age for a person hired in a hazardous position shall be as follows:

Effective Date	Maximum Employment Age
July 1, 1972	38
July 1, 1973	37
July 1, 1974	36
July 1, 1975	35

(5) (7) Any person employed in a hazardous position after July 1, 1972 shall be required to undergo a thorough medical examination by a licensed physician, and a copy of the medical report of the physician shall be retained on file by the employe's department *or county* and made available to the board upon request.

(6) (8) In the event of any doubt regarding the benefits *payable to* of a hazardous position *employe* under this section, the board shall determine whether the benefits *payable* under KRS 61.510 to 61.700 or 78.510 to 78.990 or 16.505 to 16.645 are applicable .

Section 22. KRS 61.595 is amended to read as follows:

(1) Upon retirement at normal retirement date, or subsequent thereto, a member may receive an annual retirement allowance, payable monthly during his lifetime, which shall consist of an amount equal to one and six-tenths per cent (1.6%) of final compensation multiplied by the number of years of service credit, except that:

(a) The annual normal retirement allowance for members of the General Assembly, who serve during the 1974 General Assembly, and will have eight (8) years or more of total legislative service as of December 31, 1975, shall not be less than $240 multiplied by the number of years of service as a member of the General Assembly;

(b) The annual normal retirement allowance for members of the General Assembly who will have fewer than eight (8) years of service as of December 31, 1975, shall be as prescribed in this subsection for legislative service prior to January 1, 1974.

(c) The annual normal retirement allowance for a member with ten (10) or more years of service, *in the Kentucky employes retirement system,* at least one (1) of which is current service, shall not be less than $512.

(2) Upon service retirement prior to normal retirement date, a member may receive an annual retirement allowance payable monthly during his lifetime which shall be determined in the same manner as for retirement at his normal retirement date with years of service and final compensation being determined as of the date of his actual retirement, but the amount of the retirement allowance so determined shall be reduced to reflect the earlier commencement of benefits except that *if the member has attained age 55* there shall be no reduction in the retirement allowance of the member who has thirty (30) or more years of service credit at least fifteen (15) of which are current service.

(3) The retirement allowance shall be calculated by using the member's known creditable compensation prior to his last month's employment and an estimate of his creditable compensation during the last month he was employed. Based upon this calculation, the state treasurer shall be requested to issue the initial retirement *payment* check.

(4) A new calculation shall be made when the official report has been received of the member's creditable compensation during his last month's employment. However, the retirement allowance determined in accordance with subsection (3) of this section shall be the official retirement allowance unless the new calculation derives an amount which is twenty-five cents (25¢) greater or less than the amount of the initial retirement *payment* check.

Section 23. KRS 61.615 is amended to read as follows:

(1) Whenever the recipient of a disability retirement allowance is, prior to his normal retirement date, engaged in gainful occupation of work paying more than the difference between the disability retirement allowance and fifty per cent (50%) of his final compensation , the board at its discretion may reduce such retirement allowance to an amount which, together with the amount earnable by him equals the amount of fifty per cent (50%) of his final compensation .

(2) Should it be determined that any disabled recipient is able to engage in gainful occupation paying more than the difference between his retirement allowance and fifty per cent (50%) of his final compensation at retirement , and should the board find that such person shall have refused any employment considered by the board suitable to his capacity, he shall not be entitled to any such allowance during the continuance of such refusal, unless in the opinion of the board such refusal was justified.

(3) The board shall have full power and exclusive authority to reduce or discontinue a disability retirement allowance and the board shall utilize procedures consistent with KRS 61.665, including services of an examiner in determining the amount of reduction in retirement allowance under this section.

(4) No disability retirement allowance shall be reduced or discontinued by the board after the member's normal retirement date except in case of re-employment as provided for by KRS 61.637. In any case where a disability retirement allowance has been reduced or discontinued, except where the member is re-employed as provided for by KRS 61.637, the retirement allowance shall be reinstated upon attainment of the member's normal retirement age to the retirement allowance prior to adjustment, provided however, no reinstated payment shall be less than the recipient is receiving upon attainment of the member's normal retirement age.

Section 24. KRS 61.625 is amended to read as follows:

If a member's employment has been terminated for a period of thirty (30) consecutive days or if the member has remained in a layoff, seasonal, emergency, temporary or part-time position for a period of thirty (30) consecutive days, he, if living, if not, his designated beneficiary, shall be paid, on demand, but not later than thirty (30) days thereafter, the amount of his accumulated contributions reduced by the amount of any retirement allowances previously received. Payments made under this section shall be in lieu of any other benefits due *for such period of service* under any of the provisions of KRS *16.505 to 16.652 and* 61.510 to

61.700 and 78.510 to 78.990, *unless such period of service is regained as provided under KRS 61.552.*

Section 25. KRS 61.630 is amended to read as follows:

(1) Should a retired member who did not elect an optional retirement plan *or a retired member who elected the partial deferred option under KRS 61.635(7)* die at any time after retirement but before receiving total retirement allowances provided in KRS *16.505 to 16.652 and* 61.510 to 61.700 and 78.510 to 78.990 at least equal to his accumulated contributions as of the date of his retirement, the difference between such accumulated contributions and such total allowances shall then be payable in a lump sum to the properly designated beneficiary, if then living; otherwise, to the estate of the deceased retired member.

(2) Should a retired member who elected an optional retirement plan and his beneficiary both die at any time after retirement of the member but before receiving total retirement allowances provided in KRS *16.505 to 16.652 and* 61.510 to 61.700 and 78.510 to 78.990 at least equal to the retired member's accumulated contributions as of the date of his retirement, the difference between such accumulated contributions and such total allowances shall then be payable in a lump sum to the estate of the last deceased. In the event of the simultaneous death of the retired member and beneficiary, the estate of the retired member shall become the beneficiary.

(3) Should a beneficiary receiving a lifetime retirement allowance under KRS *16.578 or* 61.640 die before receiving total retirement allowances provided in KRS *16.505 to 16.652 and* 61.510 to 61.700 and 78.510 to 78.990 at least equal to the member's accumulated contributions as of the date of the member's death, the difference between such accumulated contributions and such total allowances shall then be payable in a lump sum to the estate of the beneficiary.

(4) Should a beneficiary receiving a retirement allowance for one hundred twenty (120) months certain under KRS *16.578 or* 61.640 *or a beneficiary receiving a retirement allowance under the life with ten years certain option selected by the member under KRS 61.635(5) or a beneficiary receiving a retirement allowance for the duration of ten (10) years certain as prescribed in chapter 128, section 4(6), acts of the 1974 General Assembly* die before receiving *all payments under the plan,* one hundred twenty (120) monthly payments, the executor or administrator of his estate may elect to receive a lump sum payment which shall be the actuarial equivalent to the remaining payments, or said executor or administrator may elect to continue the remaining monthly payments to the estate of the beneficiary.

Section 26. KRS 61.635 is amended to read as follows:

(1) Each member shall have the right to elect to have his retirement allowance payable under any one (1) of the options set forth in this section in lieu of the retirement allowance otherwise payable to him upon retirement under any of the provisions of KRS *16.505 to 16.652 and* 61.510 to 61.700 and 78.510 to 78.990. The amount of any such optional retirement allowance shall be actuarially equivalent to the amount of retirement allowance otherwise payable to him.

(2) *Survivorship one-hundred per cent (100%)* Option (a) . The member may elect to receive a decreased retirement allowance during his lifetime and have such retirement allowance continued after his death to his beneficiary during the lifetime of such person.

(3) Survivorship sixty-six and two-thirds per cent (66 2/3%). The member may elect to receive a decreased retirement allowance during his lifetime and have two-thirds (2/3) of such retirement allowance continue after his death to his beneficiary during the lifetime of such person.

(4) (3) *Survivorship fifty per cent (50%)* Option (b) . The member may elect to receive a decreased retirement allowance during his lifetime and have one-half (1/2) of such retirement allowance continued after his death to his beneficiary during the lifetime of such person.

(5) Life with ten years certain. The member may elect to receive a monthly retirement allowance during his lifetime which shall guarantee payments for one-hundred and twenty (120) months. If the member should become deceased before receiving payments for one-hundred and twenty (120) months, his beneficiary shall receive the remaining payments monthly for the duration of the one-hundred and twenty (120) months period, except if the estate is designated as beneficiary the executor or administrator of the estate may elect to receive a lump sum payment which shall be the actuarial equivalent to the remaining payments, or said executor or administrator may elect to continue the remaining monthly payments to the estate of the member.

(6) Social security adjustment options. These options are available to any member who has not attained age 62 as follows:

(a) No survivor rights. The member may elect to receive an increased retirement allowance from his effective retirement date through the month he attains age sixty-two (62) at which time his retirement allowance shall be decreased for the remainder of his lifetime.

(b) Survivor rights. The member may elect to receive an increased retirement allowance from his effective retirement date through the month he attains age sixty-two (62) based on the option payable under subsection (2) of this section, provided the retirement allowance shall be decreased in the month following the month he attains age sixty-two (62), or the month following the month he would have attained age sixty-two

(62), in event of his death, and have such retirement allowance continue after his death to his beneficiary during the lifetime of such person.

(7) Partial deferred. The member may elect to receive during his lifetime a decreased retirement allowance, as determined by the member, from his effective retirement date through the month he attains age sixty-two (62), with an increased retirement allowance thereafter provided, however, that the member has one election to increase his allowance prior to attainment of age sixty-two (62) on any annual anniversary date prior to attaining age sixty-two (62).

(8) (4) In addition to the optional forms of annuities permitted under this section the board may establish such additional optional forms of annuities as it deems desirable. Such additional forms of annuities shall be based on actuarial equivalent values, with due regard to selection against the fund.

Section 27. KRS 61.637 is amended to read as follows:

(1) A retired member who is receiving monthly retirement payments under any of the provisions of KRS 61.510 to 61.700 and 78.510 to 78.990 and who is re-employed as an employe by a participating agency, shall have his retirement payments suspended for the duration of such re-employment. Monthly payments shall not be suspended for a retired member who is re-employed in a seasonal, emergency, temporary, part-time, or full-time position if he anticipates that he will receive less than the maximum permissible earnings as provided by the Federal Social Security Act in compensation as a result of re-employment during the calendar year. The payments shall be suspended at the beginning of the month in which the re-employment occurs.

(2) Employer and employe contributions shall be made as provided in KRS 61.510 to 61.700 and 78.510 to 78.990 on the compensation paid during such re-employment except where monthly payments were not suspended as provided in subsection (1) of this section and the member shall be credited with additional service credit.

(3) In the month following the termination of re-employment, retirement allowance payments shall be reinstated under the plan the member was receiving payments prior to re-employment.

(4) (a) Notwithstanding the provisions of this section, the payments suspended in accordance with subsection (1) of this section shall be paid retroactively to the retired member, or his estate, provided he does not receive more than the maximum permissible earnings as provided by the Federal Social Security Act in compensation from participating agencies during any calendar year of re-employment.

(b) In the event the retired member is paid suspended payments retroactively in accordance with this section, employe contributions deducted during his period of re-employment, if any, shall be refunded to the retired employe and no service credit shall be earned for the period of re-employment.

(c) In the event the retired member is not eligible to be paid suspended payments for his period of re-employment as an employe, his retirement allowance shall be re-computed under the plan the member was receiving payments prior to re-employment as follows:

1. The retired member's final compensation shall be recomputed using creditable compensation for his period of re-employment; however, the final compensation resulting from the recalculation shall not be less than that of the member when his retirement allowance was last determined.

2. If the retired member initially retired on or subsequent to his normal retirement date his retirement allowance shall be recomputed by using the formula in subsection (1) of KRS 61.595 , if he retired under the Kentucky employes retirement system or the formula in subsection (1) of KRS 78.680 if he retired under the county employes retirement system .

3. If the retired member initially retired prior to his normal retirement date his retirement allowance shall be recomputed using the formula in subsection (2) of KRS 61.595 if the retired member retired under the Kentucky employes retirement system or the formula in subsection (1) of KRS 78.680 if he retired from the county employes retirement system , except that the member's age used in computing benefits shall be his age at the time of his initial retirement increased by the number of months of service credit earned for service performed during re-employment.

4. The retirement allowance payments resulting from the recomputation under this subsection shall be payable in the month following the termination of re-employment in lieu of payments under subparagraph 3 provided, however, the member shall not receive less in benefits as a result of the recomputation than he was receiving prior to re-employment *or would receive as determined under KRS 61.691.*

5. Any retired member who was re-employed prior to March 26, 1974 shall begin making contributions to the system in accordance with the provisions of this section on the first day of the month following March 26, 1974.

(5) A retired member, or his estate, shall pay to the retirement fund the total amount of payments which are not suspended in accordance with subsection (1) of this section if the member received more than the maximum permissible earnings as provided by the Federal Social Security Act in compensation from participating agencies during any calendar year of re-employment.

(6) (a) "Re-employment" or "reinstatement" as used in this section shall not include a retired member who has been ordered reinstated by the personnel board under authority of KRS 18.270.

(b) A retired member who has been ordered reinstated by the personnel board under authority of KRS 18.270 and accepts employment by an agency participating in the Kentucky employes retirement system shall void his retirement by reimbursing the system in the full amount of his retirement allowance payments received.

Section 28. KRS 61.640 is amended to read as follows:

(1) If an employe in the active employment of a participating agency or on official leave from such agency, provided such leave has been granted in accordance with the policy of the state department of personnel, with *service credit of sixty (60) months at least twelve (12) of which are current service* the minimum service credit prescribed in KRS 61.559 , dies at any time before the first retirement allowance payment has been drawn by the state treasurer and has on file with the board at the time of his death a written designation of a beneficiary, then said beneficiary may elect to receive an annual benefit payable monthly commencing in the month following the member's death which shall be equivalent to the benefit the member would have been entitled to receive, based on his age, years of service and final compensation at date of his death, had the member been eligible for retirement and had he chosen benefits payable under KRS 61.635(2) or the said beneficiary may elect the actuarial equivalent payable for one hundred twenty (120) months certain.

(2) If a member not in the active employment of a participating agency, nor on official leave from such agency, with the minimum service credit and age prescribed in KRS 61.559 (1) dies before the first retirement allowance payment has been drawn by the state treasurer and has on file with the board at the time of his death a written designation of a beneficiary, then said beneficiary may elect to receive an annual benefit payable monthly commencing in the month following the member's death which shall be equivalent to the benefit the member would have been entitled to receive, based on his age, years of service and final compensation at date of his death, had he chosen benefits payable under KRS 61.635(2) or the said beneficiary may elect the actuarial equivalent payable for one hundred twenty (120) months certain.

(3) If a member, not in the active employment of a participating agency nor on official leave from such agency with *twelve (12)* twenty (20) or more years of service credit at least *one (1)* five (5) of which *is* are current service, dies at any time before the first retirement allowance payment has been drawn by the state treasurer and has on file with the board at the time of his death a written designation of a beneficiary then said beneficiary may elect to receive an annual benefit payable monthly commencing in the month following the member's death which shall be equivalent to the benefit the member would have been entitled to receive, based on his age, years of service and final compensation at date of his death, had the member been eligible for retirement and had he chosen benefits payable under KRS 61.635(2) or the said beneficiary may elect the actuarial equivalent payable for one hundred twenty (120) months certain.

(4) An alternative calcuation of benefits payable to the beneficiary under subsection (1) or (2) or (3) of this section shall be determined by computing an annual benefit payable commencing in the month following the member's death which shall be equivalent to the benefit the member would have been entitled to receive based on his years of service and final compensation at the date of his death reduced by the *survivorship fifty per cent (50%)* option (b) factor as provided for in KRS 61.635*(4)* (3) then reduced by fifty per cent (50%), and the actuarial equivalent payable for one hundred twenty (120) months certain shall be determined.

(5) The highest monthly benefit determined under subsection (1) or (2) or (3) or (4) of this section for a life annuity or for payments for one hundred twenty (120) months certain shall be tendered to the beneficiary.

Section 29. KRS 61.645 is amended to read as follows:

(1) The system shall be administered by the board of trustees of the Kentucky retirement systems composed of nine (9) members, who shall be selected as follows:

(a) The commissioner of personnel shall serve as trustee for as long as he occupies the position of commissioner under KRS 18.160 except as provided under subsections (5) and (6) of this section;

(b) Two (2) trustees, who must be members or retired from the county employes retirement system, elected by the members of the county employes retirement system;

(c) One (1) trustee, who must be a member or retired from the state police retirement system, elected by the members of the state police retirement system;

(d) Two (2) trustees, who must be members or retired from the Kentucky employes retirement system, elected by the members of the Kentucky employes retirement system;

(e) Three (3) trustees appointed by the governor of the commonwealth.

(2) The board is hereby granted the powers and privileges of a corporation including, but not limited to the following powers:

(a) To sue and be sued in its corporate name;

(b) To make bylaws not inconsistent with the law;

(c) To conduct the business and promote the purposes for which it was formed;

(d) To contract for investment counseling, actuarial, auditing and other professional services as its statutory purpose may require without limitations of KRS 45.360;

(e) To acquire, hold, sell, dispose of, pledge, lease or mortgage any such property as its purpose may require, notwithstanding the limitations of KRS chapters 45 and 56 provided however, that the board is not authorized to construct a building; and

(f) *The board shall* To reimburse any trustee or officer for any legal expense resulting from a civil action arising out of the performance of his official duties.

(3) (a) Notwithstanding the provisions of subsection (1) of this section, each trustee shall serve a term of four (4) years or until his successor is duly qualified except as otherwise provided in this section.

(b) The trustee to be elected by the members of the county employes retirement system who replaces the attorney general on the board shall have an initial term expiring on March 31, 1977 and nominations for this position and the election process shall take place within ninety (90) days after March 26, 1974, with the attorney general serving until such elected member has been duly qualified and administered the oath of office.

(c) The term of office of the trustee elected by the membership of the Kentucky employes retirement system which now expires on December 10, 1975 shall be succeeded by a term expiring on March 31, 1978.

(4) (a) The trustees selected by the membership of each of the various retirement systems shall be elected by ballot. For each trustee to be elected the board shall nominate not less than six (6) months before a term of office of a trustee is due to expire at least three (3) constitutionally eligible individuals.

(b) Individuals may be nominated by the retirement system members which are to elect the trustee by presenting to the general manager not less than four (4) months before a term of office of a trustee is due to expire, a petition, bearing the name, social security number, and signature of no less than one-tenth ($^{1}/_{10}$) of the number voting in the last election by said retirement system members.

(c) Within three (3) months of the nominations made in accordance with paragraphs (a) and (b) of this subsection, the general manager shall cause to be prepared an official ballot. The ballot shall carry the name, address, and position title of each individual nominated by the board and by petition. Provisions shall also be made for write-in votes.

(d) The ballots shall be distributed to the eligible voters by mail to their last known residence address.

(e) The ballots shall be addressed to the tabulating committee in care of a predetermined box number at the U.S. Post Office, Frankfort, Kentucky. Access to this post-office box shall be limited to the tabulating committee consisting of three (3) discreet persons appointed by the general manager to count the ballots and tabulate the votes. The individual receiving a plurality of votes shall be declared elected.

(f) The eligible voter shall cast his ballot by checking a square opposite the name of the candidate of his choice. He shall record his social security number, sign, and mail the ballot at least thirty (30) days prior to the date the term to be filled is due to expire. The latest mailing date shall be printed on the ballot.

(g) The tabulating committee shall report in writing the outcome to the chairman of the board of trustees. Cost of an election shall be payable from the funds of the system for which the trustee is elected.

(5) Any vacancy which may occur in an appointed position shall be filled in the same manner which provides for the selection of the particular trustee, and any vacancy which may occur in an elected position shall be filled by appointment by a majority vote of the remaining trustees, and should the commissioner of personnel resign his position as trustee it shall be filled by appointment made by the governor; however, any vacancy shall be filled only for the duration of the unexpired term.

(6) Membership on the board of trustees shall not be incompatible with any other office unless a constitutional incompatibility exists. No trustee may serve in more than one (1) position as trustee on the board and should a trustee be in more than one (1) position as trustee on the board, he is hereby permitted a choice of resigning any position. No trustee shall be subject to removal from office except upon conviction of a felony, or of a misdemeanor involving moral turpitude.

(7) Trustees who do not otherwise receive a salary from the state treasury shall receive a per diem of $45 for each day they are in session or on official duty, and they shall be reimbursed for their actual and necessary expenses in accordance with normal state regulations and standards.

(8) The board shall meet at least once in each quarter of the year and may meet in special session upon the call of the chairman or the general manager. It shall elect a chairman and a vice-chairman. A majority of the trustees shall constitute a quorum, and all actions taken by the board shall be by affirmative vote of a majority of the trustees present.

(9) The board shall:

(a) Appoint or contract for the services of a general manager, and fix his compensation without limitation by the provisions of KRS Chapter 18 and KRS 64.640. The general manager shall be the chief administrative officer of the board;

(b) Appoint such other employes as it deems necessary and fix the compensation for all employes of the board, subject to the approval of the commissioner of personnel;

(c) Require the general manager and such employes as it thinks proper to execute bonds for the faithful performance of their duties notwithstanding the limitations of KRS Chapter 62;

(d) Establish a system of accounting; and

(e) Do all things, take all actions and make all rules and regulations, not inconsistent with the provisions of KRS 61.510 to 61.700 and 16.505 to 16.645 and 78.510 to 78.990, that it deems necessary or proper in order to carry out the provisions of KRS 61.510 to 61.700 and 16.505 to 16.645 and 78.510 to 78.990.

(10) All employes of said board shall serve during its will and pleasure.

(11) The attorney general, or an assistant designated by him, *may* shall attend each meeting of the board and *shall* receive the agenda, board minutes and other information distributed to trustees of the board and the attorney general, may act as legal adviser and attorney for the board and the board is hereby authorized to contract for legal services notwithstanding the limitations of KRS chapter 12.

(12) The board shall prepare and publish an annual financial report showing all receipts, disbursements, assets and liabilities. All its proceedings and records shall be open for inspection by the public.

(13) All expenses incurred by or on behalf of the board in the administration of the system during a fiscal year shall be paid from the retirement allowance account. The expenses incurred by the board in the administration of the system during any fiscal year shall not exceed two per cent (2%) of the total employer and member contributions during such fiscal year.

(14) Any person adversely affected by a decision of the board involving KRS 16.505 to 16.652 and 61.510 to 61.692 and 78.510 to 78.852, may appeal the decision of the board to the Franklin circuit court.

Section 30. KRS 61.680 is amended to read as follows:

(1) Every employe shall be deemed to consent and agree to any deduction from his compensation required by KRS 16.505 to 16.652 *and* , 61.510 to 61.700 and 78.510 to 78.990 and to all other provisions thereof.

(2) (a) Notwithstanding any other provisions of KRS 16.505 to 16.652 *and* , 61.510 to 61.990 and 78.510 to 78.990 and 161.220 to 161.715, upon death, disability, or service retirement a member's accounts under the state police retirement system, Kentucky employes retirement system, and county employes retirement system and teachers' retirement system shall be consolidated for the purpose of determining eligibility and amount of benefits. The computation of benefits shall be based on the applicable formula in each system and service credit in each system, but the final compensation shall be determined as if all service were in one system. If the member has prior service in more than one system, he must obtain at least twelve (12) months' current service in each system in which he has prior service in order to validate such prior service in each system for purposes of determining consolidated benefits under this section. Upon the determination of benefits each system shall pay the applicable percentage of total benefits.

(b) The provisions of subsection (2)(a) of this section shall be waived if the member notifies the board of his desire to maintain separate retirement accounts in the state police retirement system, Kentucky employes retirement system or county employes retirement system, or if he is a member of the state police retirement system or is working in a hazardous position under the Kentucky employes retirement system or county employes retirement system and as a result of an act in line of duty becomes disabled or deceased or, if a member working under a position covered by the teachers' retirement system dies and his beneficiary is eligible for death benefits under KRS 161.520, or in the event a member of the teachers' retirement system has eight (8) or more years of service and becomes disabled thereby eligible for benefits under KRS 161.661 .

(c) If the member has not contributed at least one year in a system in which he has prior service his current service in such system shall be valid for purposes of determining eligibility and in computation of benefits on a consolidated basis.

(3) A member with service credit in the Kentucky employes retirement system, *state police retirement system* or the county employes retirement system who enters the service of a department, board, agency or instrumentality of the commonwealth whereby such person would be eligible for membership in the teachers' retirement system or the judicial retirement system may elect to retain membership in the system in which he is a member, either the Kentucky employes retirement system, *state police retirement system* or the county employes retirement system. When such an election is made, the agency employing the member shall withhold employe contributions, make employer contributions and remit these contributions to the system in which the member retained his membership.

(4)*(a) Prior to July 1, 1976 a* A person entering the service of an employer participating in the Kentucky employes retirement system or the county employes retirement system with service credit in the teachers' retirement system and who desires to retain membership in the teachers' retirement system, and who is permitted by that system to continue is hereby exempt from participating in the Kentucky employes retirement system or the county employes retirement system.

(b) Any person who has elected to retain membership in the teachers' retirement system as provided in subsection (a) of this section may cancel his election and participate in the system under which his position would normally participate, provided he elects to cancel his option prior to January 1, 1977.

(c) Any member of the general assembly who upon election is a contributing member of the teachers' retirement system may elect to retain membership in the teachers' retirement during his term of office rather

than participate in the Kentucky employes retirement system. Such election to retain membership in the teachers' retirement system must be filed in writing within 90 days after his term of office begins or he will participate in the Kentucky employes retirement system during his term of office. No contributions may be made to the teachers' retirement system for the same period of service under the Kentucky employes retirement system as a member of the general assembly.

(5) Effective July 1, 1974 any member of the Kentucky employes retirement system or county employes retirement system who is working in a position covered by one of these retirement systems and his employe contributions, service credit and employer contributions made on his behalf are being transferred to the other retirement system shall contribute to the system in which his employer participates and no further contributions or service credit shall be transferred to the system in which he elected to retain membership as subsection (2) of this section eliminates the necessity of such transfers.

(6) Notwithstanding the provisions of subsection (3) of this section, a person entering membership of the judicial retirement system with service credit in the state police retirement system, Kentucky employes retirement system, county employes retirement system or teachers' retirement system will become vested for early and normal retirement benefits when his combined service credit in all systems is equal to that required for vesting in each respective system.

Section 31. KRS 61.691 is amended to read as follows:

(1)(a) Effective on the first day of the month following the date this Act becomes law, a recipient of a retirement allowance under KRS 16.505 to 16.652 and 61.510 to 61.692 and 78.510 to 78.852 shall have his retirement allowance increased by two per cent (2%) for each year since his effective retirement date as provided under KRS 61.590, subject to a maximum increase of 20%, except a recipient of an early retirement allowance under KRS 16.577, 61.595(2) and Chapter 116, section 70(2), acts of the 1972 General Assembly shall not receive such increase unless the retired member's age is within five (5) years of his normal retirement date.

(b) Any fractional portion of a year shall be computed on a pro-rata basis.

(2) Effective July 1, 1977 the retirement allowance of each recipient of a retirement allowance under KRS 16.505 to 16.652 and 61.510 to 61.692 and 78.510 to 78.852 shall be increased in the amount of one-twelfth of two per cent (1/12 of 2%) for each month since his effective retirement date as prescribed under KRS 61.590, subject to a maximum increase of two per cent (2%) except a recipient of an early retirement allowance under KRS 16.577, 61.595(a) and Chapter 116, section 70(2), acts of the 1972 General Assembly shall not receive such increase unless the retired member's age is within five (5) years of his normal retirement date.

(3) A re-employed retired member whose payments are suspended as provided under KRS 61.637 shall be eligible for an increase in his suspended retirement allowance as provided under this section, computed as if he were receiving said retirement allowance at the time such increase under this section is effective.

A person entitled to receive retirement payments under KRS 61.510 to 61.700 shall have his benefits increased by six and sixty-seven hundredths per cent (6.67%) effective April 1, 1972.

SECTION 32. A NEW SECTION OF KRS CHAPTER 61 IS CREATED TO READ AS FOLLOWS:

(1) Should the legislature appropriate funds for a broad program of hospital and medical insurance coverage to retirees of the Kentucky employes retirement system, county employes retirement system and state police retirement system, and their spouses and minor children, the board shall contract for said program in accordance with the provisions of KRS 161.675.

(2) Such contract may be jointly negotiated with the board of trustees of the Kentucky teachers' retirement system and such joint contract is encouraged because of the economy of scale. No commission shall be paid to any agent for insurance procured under this section or KRS 161.675.

(3) Premiums paid for hospital and medical insurance coverage procured under authority of this section and KRS 161.675 shall be exempt from premium tax normally required under KRS Chapter 136.

(4) The payment of premium by the state shall not constitute taxable income to an insured retiree or spouse or minor children.

(5) The purpose of this section is to provide a broad program of hospital and medical insurance coverage to recipients, their spouses and minor children covered by the Kentucky retirement systems as such program is now provided to recipients, their spouses and minor children of Kentucky teachers' retirement system.

SECTION 33. A NEW SECTION OF KRS CHAPTER 61 IS CREATED TO READ AS FOLLOWS:

(1) Any member of the Kentucky employes retirement system or the state police retirement system who is employed by the state shall, upon retirement, be eligible for sick leave service credit in his retirement system, either the Kentucky employes retirement system or the state police retirement system in accordance with this section.

(2) Any retiring member of the Kentucky employes retirement system who is employed by a department which is not an integral part of state government and any retiring member of the county employes retirement

system will not be eligible to receive sick leave service credit under this section in his retirement system, either the Kentucky employes retirement system or county employes retirement system unless the appropriate governing authority files a written election with the retirement board to pay for sick leave service credit in accordance with this section.

(3) Upon retirement under any of the provisions of KRS 16.505 to 16.652 or 61.510 to 61.692 or 78.510 to 78.852 the eligible member's sick leave balance as expressed in days shall be divided by twenty-four (24) and rounded to the nearest number of whole months.

(4) The maximum number of months of service credit which shall be granted under this section shall be six (6).

(5) The employer shall certify to the board the sick leave balance of each eligible retiring employe. The board shall compute the cost to the employing agency for such service credit in accordance with the increase liability to the system and the employing agency shall pay for such service credit by interaccount charge if a department of state government. Employers electing to participate under subsection (2) of this section shall pay by invoice within 30 days.

(6) This section shall become effective July 1, 1976.

Section 34. KRS 78.510 is amended to read as follows:

As used in KRS 78.510 to 78.880, unless the context otherwise requires:

(1) "System" means the county employes retirement system;

(2) "Board" means the board of trustees of the system as provided in KRS 78.780;

(3) "County" means any county or political subdivision or instrumentality, including school boards, or urban county government participating in the system by order appropriate to its governmental structure, as provided in KRS 78.530, and provided the board is willing to accept such agency or corporation, the board being hereby granted the authority to determine the eligibility of such agency to participate;

(4) "School board" means any board of education participating in the system by order appropriate to its governmental structure, as provided in KRS 78.530, and provided the board is willing to accept such agency or corporation, the board being hereby granted the authority to determine the eligibility of such agency to participate;

(5) "Examiner" means the medical examiner or examiners as provided in KRS 61.665;

(6) "Employe" means every regular full-time appointed or elective officer or employe of a participating county. The term shall not, however, include persons engaged as independent contractors, seasonal, emergency, temporary and part-time workers. In case of any doubt, the board shall determine if a person is an employe within the meaning of KRS 78.510 to 78.990;

(7) "Employer" means a county, the electorate of a county, or any authority of such county having the power to appoint or elect an employe to office or employment in such county.

(8) "Member" means any employe who is included in the membership of the system or any former employe whose membership has not been terminated under KRS 61.535;

(9) "Service" means the total of current service and prior service as defined herein;

(10) "Current service" means the number of years and months of employment as an employe, on and after July 1, 1958, for which creditable compensation is paid and employe contributions deducted except as otherwise provided in KRS 61.552(7), 61.555 (1) and 78.530;

(11) "Prior service" means the number of years and completed months, expressed as a fraction of a year, of employment as an employe, prior to July 1, 1958, for which creditable compensation was paid. An employe shall be credited with one (1) month of prior service only in those months he received compensation for at least one hundred (100) hours of work;

(12) "Accumulated contributions" means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the members' contribution account, together with interest credited on such amounts, and any other amounts the member shall have contributed thereto, including interest credited thereon;

(13) "Creditable compensation" means all salary, wages and fees paid to the employe as a result of services performed for the employer. In cases where compensation includes maintenance and other perquisites, the board shall fix the value of that part of the compensation not paid in money;

(14) "Final compensation" of a member means the creditable compensation of the member during the five (5) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that five-year period multiplied by twelve (12). Said five (5) years may be fractional and need not be consecutive. In the event the number of months of service credit during such five-year period is less than forty-eight (48), one or more additional fiscal years shall be used;

(15) "Final rate of pay" means the actual rate upon which earnings of an employe were calculated during the twelve (12) months period immediately preceding the member's effective retirement date. Such rate shall be certified to the board by the employer and the following equivalents shall be used to convert said rate to an annual rate: 1,950 hours, 260 days, 52 weeks, 12 months, one year:

(16) "Retirement allowance" means the retirement payments to which a member is entitled;

(17) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of such actuarial tables as are from time to time adopted by the board except in case of disability retirement the beneficiary options *authorized by KRS 61.635* shall be computed by adding ten (10) years to the age of the member, *provided however, that no disability retirement option shall be less than the same option computed under early retirement*;

(18) "Normal retirement date" means the sixty-fifth (65th) birthday of a member unless otherwise provided in KRS 78.510 to 78.990;

(19) "Fiscal year" of the system means the twelve (12) months from July 1 through the following June 30;

(20) "Agency reporting official" means the person designated by the participating agency to file reports with the county employes retirement system;

(21) "Regular full-time positions" as used in subsection (6) of this section shall mean all positions except:

(a) Seasonal positions, which although temporary in duration, are positions which coincide in duration with a particular season or seasons of the year and which may recur regularly from year to year;

(b) Emergency positions which are positions which do not exceed thirty (30) working days and are nonrenewable;

(c) Temporary positions which are positions of employment with a participating agency for a period of time not to exceed twelve (12) months in any event and not renewable;

(d) Part-time positions which are positions which may be permanent in duration, but which require less than an annual or fiscal year average of one hundred (100) hours of work per month in the performance of duty, except in case of school bus drivers for school boards, in which event the school term average shall be eighty (80) hours of work per month in the performance of duty; and

(22) "Alternate participation plan" means a new method of participation in the system as provided for by KRS 78.530(3) which shall become effective July 1, 1973.

Section 35. KRS 78.545 is amended to read as follows:

The following matters shall be administered in the same manner subject to the same limitations and requirements, as provided for the Kentucky employes retirement system as follows:

(1) Cessation of membership, conditions, as provided for by KRS 61.535;

(2) Statement of member and employer, as provided for by KRS 61.540;

(3) Beneficiary to be designated by member, change, rights, as provided for by KRS 61.542;

(4) Service credit determination, as provided for by KRS 61.545;

(5) Cessation of membership, loss of benefits, as provided for by KRS 61.550;

(6) Service credit, armed forces, as provided for by KRS 61.555;

(7) *Normal and early retirement eligibility requirements* Minimum service credit required , as provided for by KRS 61.559;

(8) *Hospital and medical benefits program as provided for by Section 32 of this Act*; Uninvested funds, maximum, as provided for by KRS 61.585

(9) *Retirement application procedure, effective retirement date* Service retirement, conditions, as provided for by KRS 61.590;

(10) Disability retirement, conditions, as provided for by KRS 61.600;

(11) Disability retirement, allowance, as provided for by KRS 61.605;

(12) Medical examination after disability retirement, as provided for by KRS 61.610;

(13) Disability retirement allowance, reduction, as provided for by KRS 61.615;

(14) *Determination of retirement allowance as provided for by KRS 61.595*; Disability retirement allowance, cessations, as provided for by KRS 61.620

(15) Refund of contributions, conditions, as provided for by KRS 61.625;

(16) Refund of contributions, death after retirement, as provided for by KRS 61.630;

(17) Optional retirement plans as provided for by KRS 61.635;

(18) Suspension of retirement payments on re-employment, reinstatement, as provided for by KRS 61.637;

(19) Death before retirement, beneficiary's options, as provided for by KRS 61.640;

(20) Board of trustees, conflict of interest, as provided for by KRS 61.655;

(21) Custodian of funds, payments made, when, as provided for by KRS 61.660;

(22) Medical examiners, as provided for by KRS 61.665;

(23) Actuarial bases, as provided for by KRS 61.670;

(24) Employer's administrative duties, as provided for by KRS 61.675;

(25) Correction of errors in records, as provided for by KRS 61.685;

(26) Exemptions of retirement allowances, as provided for by KRS 61.690;

(27) *Retirement allowance increases as provided for by KRS 61.691*; False statements or falsification of records, penalty, as provided for by KRS 61.700

(28) Credit for service prior to membership date, as provided for by KRS 61.526;

(29) *Creditable compensation* Official income of fee officers, as provided for by KRS 61.541;

(30) Transfer of dormant accounts, as provided for by KRS 61.626;

(31) Members' account, confidential, as provided for by KRS 61.661; and

(32) *Retirement plan for employes determined to be in a hazardous* Hazardous position s as provided for by KRS 61.592 (1) to (3) and (7) to (8): further provided, however, that the normal retirement age, maximum employment age, and retirement allowance of a member serving in a hazardous position shall be determined in the same manner as a member of the state police retirement system as provided for by KRS 16.505 to 16.645 except the mandatory retirement provision of KRS 16.576(1) shall not be applicable ;

(33) Maximum disability benefit as provided for by KRS 61.607;

(34) Consent to employes to deductions and reciprocal arrangement between systems, as provided for by KRS 61.680;

(35) Employer contributions as provided for by KRS 61.565; and

(36) Recontribution s and delayed contribution s *payments* as provided for by KRS 61.552*; and*

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(37) Sick leave service credit as provided for by Section 33 of this Act.

Section 36. KRS 78.550 is amended to read as follows:

Any person who is an employe on the date his county first participates in the system, either in service or on leave from service, who does not elect within the time set forth in KRS 78.510 to 78.880 to become a member and thereby make contributions required of him by KRS 78.510 to 78.880, shall forfeit all right for credit for service with any county prior to the date he might subsequently elect to become a member, except as provided in KRS *61.552* 78.607 .

Section 37. KRS 78.615 is amended to read as follows:

(1) Employe contributions shall be deducted each payroll period from the creditable compensation of each employe of an agency participating in the system while he is classified as regular full-time as defined in KRS 78.510 (5) unless such person did not elect to become a member as provided by subsection (2) of KRS 78.540. Service credit will be allowed for each month such contributions are deducted during a fiscal or calendar year, provided the employe receives creditable compensation for an average of one hundred (100) hours or more of work per month. If the average number of hours of work is less than one hundred (100) hours per month, the employe shall be allowed credit only for those months he receives creditable compensation for one hundred (100) hours of work.

(2) Employe contributions shall not be deducted from the creditable compensation of any employe while he is seasonal, emergency, temporary or part-time. No service credit will be earned.

(3) Contributions shall not be made and no service credit will be earned by a member while on leave except:

(a) A member on military leave shall be entitled to service credit in accordance with KRS 61.555; and

(b) A member on educational leave who meets the criteria established by the state department of personnel for approved educational leave, who is receiving 75% or more of full salary shall receive service credit and shall pay member contributions in accordance with KRS 78.610 and his employer shall pay employer contributions in accordance with KRS *61.565* 78.620 . If a tuition agreement is broken by the member the member and employer contributions paid during the period of educational leave shall be refunded.

(4) The retirement office, upon detection, shall refund erroneous employer and employe contributions made to the retirement system.

Section 38. KRS 78.625 is amended to read as follows:

(1) The treasurer of the county shall, by the tenth day of each month, forward to the board an amount equal to the aggregate amount of the employes contributions deducted during the previous month in accordance with KRS 78.610 and the aggregate amount of the employer's contributions due for the previous month in accordance with KRS *61.565* 78.620 .

(2) The treasurer or some other person designated by the county shall forward a record of all such contributions to the board on such forms as the board may prescribe.

(3) Delinquent contributions, with interest at the rate of six per cent (6%) per year compounded annually, may be recovered by action in the Franklin Circuit Court against the county liable therefore or may at the request of the board, be deducted from any other moneys payable to such county by any department or agency of the state.

(4) In the event an agency is delinquent in the payment of contributions due in accordance with any of the provisions of KRS 78.510 to 78.880, refunds and retirement allowance payments to members of this agency may be suspended until the delinquent contributions have been made.

Section 39. KRS 78.780 is amended to read as follows:

(1) The government and control of the system is vested in the board of trustees of the Kentucky retirement systems. The board shall carry out the provisions of KRS 78.510 to 78.991 in the same manner in which it administers the Kentucky employes ' retirement system. In all matters concerning the administration of KRS 78.510 to 78.991, the same rights, duties, and obligations shall apply to the board as apply under the provisions of KRS 61.510 to 61.700, except that members of the board, when acting for the county employes ' retirement system, shall be paid a per diem of *forty-five* twenty dollars *($45.00)* ($20.00) , plus actual expenses.

(2) Expenses incurred by or on behalf of the board in the administration of the system during a fiscal year shall be paid from the retirement allowance account. The expenses incurred by the board payable out of the retirement allowance account in the administration of the system during any fiscal year shall not exceed two percent (2%) of the total employer and member contributions during such fiscal year. Nothing herein shall be construed as limiting appropriations which may be made to the system from other sources.

SECTION 40. A NEW SECTION OF KRS CHAPTER 78 IS CREATED TO READ AS FOLLOWS:

(1) In the event a county participating in the system or an employer thereof or an eligible county which elects to participate in the system, or an employer thereof has acquired a private corporation, company, organization or entity:

(a) The county may elect, by adopting an order appropriate to its governing body under KRS 78.530, that the employes of such former private employer who participate in a retirement plan be eligible for participation in the system.

(b) In the event the county adopts such order, regular full-time employes of the former private employer will be eligible for current service and prior service for the period of time said employes were employed by the private employer acquired if the employe elects to participate in the system as provided in KRS 78.540(2).

(c) If the county elects the alternate particpation plan as set forth in KRS 78.530(3), employe contributions made to a retirement plan in which the employe formerly participated shall be paid into the county employes retirement system and credited to the individual member's account for each employe electing to terminate coverage under his former retirement plan in order to participate in the system under the provisions of this section. Proper credit shall be given to the county for these employe contributions in computing the cost of participation under the alternate participation plan as provided by KRS 78.530(3).

(d) If the county does not elect the alternate participation plan as set forth in KRS 78.530(3), employe contributions paid into a former retirement plan by each employe electing to terminate coverage under his former retirement plan as authorized by this section, shall be refunded to the employe unless the employe has a vested account in which case he may elect to leave his contributions in the former retirement plan in order to later receive a pension when he becomes eligible.

Section 41. The reviser of statutes shall change references in KRS Chapters 16, 61, and 78 as follows: where the language appears as 16.505 to 16.645 it shall be changed to read 16.505 to 16.652; where the language appears as 61.510 to 61.700 or 61.510 to 61.990 or 61.570 to 61.585 or 61.510 to 61.650 it shall be changed to read 61.510 to 61.692; and where the language appears as 78.510 to 78.880 or 78.510 to 78.990 it shall be changed to read 78.510 to 78.852.

Section 42. KRS 16.567, 16.573, 16.579, 61.585, 61.620, 78.537, 78.680 and 78.851 are repealed.

Section 43. This Act shall not be construed as repealing any of the provisions of 1976 House Bill 142, but shall be held and construed as ancillary and supplemental thereto.

The Committee Amendment No. 1 to **HB 625** is as follows:

Amend printed copy of **HB 625**, page 18, line 6, by inserting after "(9)" and before "years", the word " *Year*", and by placing brackets around the word "Years";

and on page 31, line 16, after the word "system" and before the ".", by inserting the following: "*and provided further that KRS 21.460 shall govern with respect to regaining credit in the judicial retirement system* ";

and on page 32, line 2, after the word "credit" and before the word "for", by inserting the following: "*in the county employes retirement system*";

and on page 32, line 20, after the word "credit" and before the word "for", by inserting the following: "*in the Kentucky employes retirement system*";

and on page 33, line 9, after the word "credit" and before the word "for", by inserting the following: "*in the Kentucky employes retirement system*";

and on page 33, line 26, after the word "credit" and before the word "for", by inserting the following: "*in the county employes retirement system*";

and on page 48, line 22, after the word "in", by inserting the words "*Chapter 116, Section 36(1), Acts of the 1972 General Assembly*", and by placing brackets around the words "this subsection";

and on page 49, line 21, following the word "*payment*", by inserting brackets around the word "check";

and on page 50, line 4, by inserting brackets around the word "check";

and on page 68, line 7, after the word "of", by inserting the words "*sixty dollars ($60.00)*", and by placing brackets around "$45";

and on page 73, line 14, following the word "retirement" and before the word "during", by inserting the word "*system*";

and on page 74, line 11, after the word "section" and before the ",", by inserting the following: "*and Section 2 of House Bill 431 of the 1976 General Assembly*";

and on page 74, line 16, after the word "benefits" and before the word "when", by inserting the following: "*in each system in which he has service credit*";

and on page 89, line 9, by inserting the word "*employes*" before the word "employes", and by placing brackets around the word "employes";

and on page 90, line 16, following the word "of", by deleting the word "*forty-five*" and by inserting in lieu thereof the word "*sixty*";

and on page 90, line 17, after the word "dollars", by deleting the word "*($45.00)*" and by inserting in lieu thereof the word "*($60.00)*".

The Committee Amendment No. 2 to **HB 625** is as follows:

Amend printed copy of **HB 625,** page 92, line 15, by adding a new section after line 15 and before line 16 as follows:

"SECTION 41. A NEW SECTION OF KRS CHAPTER 61 IS CREATED TO READ AS FOLLOWS:

A Kentucky employes retirement system member's work performed in the department of state police or its predecessor agency, the state highway patrol, prior to July 1, 1956, shall be creditable as prior service in the Kentucky employes retirement system if the member has not received prior service credit in the state police retirement system for such period of work. The purpose of this section is to grant prior service credit to state employes who cannot obtain such credit under the state police retirement system because of the maximum state police employment age established by KRS 16.520."

and on page 92, line 16, by renumbering Section 41 as Section 42;

and on page 92, line 25, by renumbering Section 42 as Section 43;

and on page 93, line 1, by renumbering Section 43 as Section 44.

HB 694, AN ACT relating to notaries public.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 423.110 is amended to read as follows:

For the purposes of KRS 423.110 to 423.190, "notarial acts" means acts which the laws and regulations of this state authorize notaries public of this state to perform, including the administering of oaths and affirmations, taking proof of execution and acknowledgments of instruments, and attesting documents. Notarial acts may be performed outside this state for use in this state with the same effect as if performed by a notary public of this state by the following persons authorized pursuant to the laws and regulations of other governments in addition to any other person authorized by the laws and regulations of this state:

(1) A notary public authorized to perform notarial acts in the place in which the act is performed;

(2) A judge, clerk, or deputy clerk of any court of record in the place in which the notarial act is performed;

(3) An officer of the foreign service of the United States, a consular agent, or any other person authorized by regulation of the United States Department of State to perform notarial acts in the place in which the act is performed;

(4) A commissioned officer in active service with the Armed Forces of the United States and any other person authorized by regulation of the armed forces to perform notarial acts if the notarial act is performed for one of the following or his dependents: a merchant seaman of the United States, a member of the Armed Forces of the United States, or any other person serving with or accompanying the Armed Forces of the United States; or

(5) Any other person authorized to perform notarial acts in the place in which the act is performed*; or*

(6) A person, either a resident or a nonresident of Kentucky, who is appointed by the governor of Kentucky to perform notarial acts outside this state covering writings prepared for recordation in this state.

HR 66, A JOINT RESOLUTION directing the submission of all proposed long-term cost-sharing contracts between the U.S. Army Corps of Engineers and the Commonwealth of Kentucky to the General Assembly for prior approval.

WHEREAS, the General Assembly has found that in recent years Kentucky's net long-term debt per capita has increased dramatically to the point that at the end of the 1973 fiscal year it was the seventh highest in the country and the highest among the eight bordering states and the 12 southeastern states; and

WHEREAS, sections 49 and 50 of the Kentucky Constitution impose certain restrictions on incurring long-term debts of the Commonwealth; and

WHEREAS, entering into cost-sharing contracts with the U.S. Army Corps of Engineers can create long-term debts which future sessions of the General Assembly would have to finance; and

WHEREAS, the General Assembly has found that problems are occurring in entering into such contracts without first identifying how the particular project will be funded;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Water Resources Authority of Kentucky is hereby directed to submit all proposed long-term cost-sharing contracts between the U.S. Army Corps of Engineers and the Commonwealth to the General Assembly for prior approval.

Section 2. That no such contract which creates or attempts to create a long-term debt of the Commonwealth shall be executed on behalf of the Commonwealth unless it is first approved by a joint resolution of the General Assembly on the proposed project appropriating funds for debt service, operation and maintenance.

Section 3. Provided, however, that nothing contained herein shall be construed to prohibit or discourage the Executive Branch from entering into any short-term cost-sharing contracts with the U.S. Army Corps of Engineers so long as the Commonwealth's total obligations thereunder will be paid out of budgeted appropriations.

SB 100, AN ACT relating to relocation assistance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 56.630 is amended to read as follows:

As used in KRS 56.610 to 56.760, 416.140, and 416.470 the term:

(1) "State agency" means any department, agency or instrumentality of the state or of a political subdivision of the state, or any department, agency or instrumentality of two (2) or more subdivisions of the state, engaged in federally assisted projects which result in displacement of persons due to the operation of such projects.

(2) "Person" means any individual partnership, corporation, or association.

(3) "Displaced person" means any person who, on or after June 16, 1972, moves from real property, or moves his personal property from real property, as a result of the acquisition of such real property, in whole or in part, or as the result of the written order of the acquiring agency to vacate real property, for a program or project undertaken by a state agency; and solely for the purpose of KRS 56.640(1) and (2) and 56.670, as a result of the acquisition of or as the result of the written order of the acquiring agency to vacate other real property, on which such person conducts a business or farm operation, for such program or project. *Whenever an acquiring agency provides that the owner of a single-family residence may, at his option, elect to retain a right of use and occupancy for not less than six (6) months from the date of acquisition of such residence and such owner elects to retain such a right, such owner shall be deemed to have waived any benefits under KRS 56.610 to 56.760 and shall not be considered a displaced person as defined above.*

(4) "Nonprofit organization" means such organization as defined in KRS 273.161.

(5) "Business" means any lawful activity, excepting a farm operation, conducted primarily:

(a) for the purchase, sale, lease and rental of personal and real property, and for the manufacture, processing, or marketing of products, commodities, or any other personal property;

(b) for the sale of services to the public;

(c) by a nonprofit organization; or

(d) solely for the purposes of KRS 56.640(1) for assisting in the purchase, sale, resale, manufacture, processing, or marketing of products, commodities, personal property, or services by the erection and maintenance of an outdoor advertising display or displays, whether or not such display or displays are located on the premises on which any of the above activities are conducted.

(6) "Farm operation" means any activity conducted solely or primarily for the production of one or more agricultural products or commodities, including timber, for sale or home use, and customarily producing such products or commodities in sufficient quantity to be capable of contributing materially to the operator's support.

Section 2. KRS 56.690 is amended to read as follows:

(1) The executive department for finance and administration shall adopt such rules and regulations as may be necessary to assure:

(a) that the payments and assistance authorized by KRS 56.610 to 56.760, 416.140, and 416.470 shall be administered in a manner which is fair and reasonable, and as uniform as practicable;

(b) that a displaced person who makes proper application for a payment authorized for such person by KRS 56.610 to 56.760, 416.140, and 416.470 shall be paid promptly after a move or, in hardship cases, be paid in advance; and

(c) that any person aggrieved by a determination as to eligibility for a payment authorized by KRS 56.610 to 56.760, 416.140, and 416.470, or the amount of a payment, may have his application reviewed by the *commissioner of the executive department for finance and administration* head of the state agency .

(2) The executive department for finance and administration may prescribe such other regulations and procedures, consistent with the provisions of KRS 56.610 to 56.760, 416.140, and 416.470, as it deems necessary or appropriate to carry out KRS 56.610 to 56.760, 416.140, and 416.470.

The Committee Amendment to **SB 100** is as follows:

Amend printed copy of **SB 100,** page 2, on line 5, after the word "project.", delete the word "*whenever*" and delete lines 6-13 in their entirety.

On line 5, after the word "project.", insert the following: "*Whenever Federal Land and Water Conservation Fund or National Park System Funds are used by an acquiring agency and said acquiring agency provides that the owner of a single-family residence may, at his option, elect to retain a right of use and occupancy for not less than six (6) months from the date of acquisition of such residence and such owner* *elects to retain such a right, such owner shall be deemed to have waived any benefits under KRS 56.610 to 56.760 and shall not be considered a displaced person as defined above."*

On page 4, line 4, after the word "the", delete the words "*Commissioner of*".

Delete line 5 in its entirety.

On line 6, remove the brackets before the word "head" and after the word "agency".

SB 118, AN ACT relating to the law enforcement foundation program.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 15.440 is amended to read as follows:

Each local unit of government which meets the following requirements shall be eligible to share in the distribution of funds from the Law Enforcement Foundation Program Fund:

(1) Employs one or more police officers;

(2) Pays every police officer a minimum annual salary of $4,350;

(3) Maintains the minimum educational requirement of a high school degree, or its equivalent as determined by the Kentucky law enforcement council, for employment of police officers on or after July 1, 1972; provided, however, that all police officers employed prior to July 1, 1972 shall be deemed to have met the requirements of this subsection;

(4) Requires all police officers employed on or after July 1, 1972, to successfully complete a basic training course of at least *400* 240 hours' duration within one year of the date of employment at a school certified or recognized by the Kentucky law enforcement council;

(5) Requires all police officers, whether originally employed before or after July 1, 1972, to successfully complete each calendar year an in-service training course, appropriate to the officer's rank and responsibility and the size and location of his department, of at least 40 hours' duration at a school certified or recognized by the Kentucky law enforcement council;

(6) Requires compliance with all provisions of law applicable to local police, including transmission of data to the bureau of criminal information and statistics as required by KRS 17.150;

(7) Requires compliance with all reasonable rules and regulations, appropriate to the size and location of the local police department, issued by the Department of Justice to facilitate the administration of the fund and further the purposes of KRS 15.410 to 15.510.

(8) Provided, however, that no local unit of government which meets the criteria of this section shall be eligible to continue sharing in the distribution of funds from the Law Enforcement Foundation Program Fund unless the local police department actually begins and continues to comply with the requirements of this section; provided, further, that no local unit shall be eligible to share in the distribution of funds from the Law Enforcement Foundation Program Fund until the local police department has substantially complied with subsections (6) and (7) of this section.

The Committee Amendment No. 1 to **SB 118** is as follows:

Amend printed copy of **SB 118,** page 3, after line 4 by adding:

"Section 2. KRS 15.500 is hereby amended to read as follows:

(1) If funds appropriated by the general assembly and otherwise made available to the law enforcement foundation program fund are insufficient to provide the amount of money required by KRS 15.460, the department of justice shall *establish the rate of assistance to be paid to eligible local units of governments and a schedule of percentage supplements to categorically specified wage rates within each local unit.* make a uniform percentage reduction in the allotment of funds available.

(2) Funds appropriated by the general assembly and unexpended by the department of justice at the close of the fiscal year for which the funds were appropriated shall not lapse as provided by KRS 45.230, but shall be carried forward into the following fiscal year."

The Committee Amendment No. 2 to **SB 118** is as follows:

Amend printed copy of **SB 118,** page 1, line 19, by inserting, after the word "of", the words "*not more than*", and by placing brackets around the words "at least".

SB 147, AN ACT relating to insurance for members of the General Assembly.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 6 IS CREATED TO READ AS FOLLOWS:

(1) The commissioner of the executive department for finance and administration, upon the recommendation of the director of the legislative research commission shall procure from one or more life insurance companies, and from one or more hospitalization insurance companies, authorized to do business in this state, a policy or policies of group life insurance insuring the lives of all members of the general assembly and shall procure a policy or policies of group hospitalization insurance covering all members of the general assembly. The policy or policies shall be approved by the commissioner of insurance and may contain such provisions as he approves whether or not otherwise permitted by the insurance laws.

(2) The premiums shall be paid by the state for individual policies for members of the general assembly. The premiums for family policies shall be paid by funds contributed partly from the policyholder and partly from the state.

No payment of premium by the state shall constitute compensation to an insured employe for the purposes of any statute fixing or limiting the compensation of such an employe; any premium or other expense incurred by the state shall be considered a proper cost of administration.

(3) The policy or policies may also provide accidental death and dismemberment insurance and may contain such provisions with respect to the amounts of insurance for members of the general assembly, terms of eligibility, continuation of insurance after retirement, and such other provisions as the commissioner of insurance may approve.

(4) The commissioner of finance is authorized to perform all acts necessary or advisable for the purpose of contracting for and maintaining insurance under the provisions of this Act.

The Committee on Education reported **HB 383,** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 383, AN ACT relating to the removal of college and university personnel.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 164.360 is amended to read as follows:

(1) Each board of regents may appoint a president, and on the recommendation of the president *or on it's own action* may, in its discretion, appoint all faculty members and employes and fix their compensation and tenure of service, subject to the provisions of subsection (2) of this section.

(2) No person shall be employed for a longer period than four (4) years. No person shall be employed who is related to any member of the board of regents as father, mother, brother, sister, husband, wife, son, daughter, aunt, uncle, sister-in-law, brother-in-law, son-in-law or daughter-in-law, except that upon written recommendation of the president of the university or college, one (1) such relative of each member of the board of regents may be appointed upon confirmation by the other three (3) appointed members.

(3) Each board may remove the president of the university or college, and upon the recommendation of the president may remove any faculty member or employe, but no president or faculty member shall be removed except for incompetency, neglect of or refusal to perform his duty, or for immoral conduct. A president or faculty member shall not be removed until after ten (10) days' notice in writing, stating the nature of the charges preferred, and after an opportunity has been given him to make defense before the board by counsel or otherwise and to introduce testimony which shall be heard and determined by the board. *Each board may administer oaths, subpoena witnesses, and compel the production of books and papers pertinent to any investigation or hearing. If any person fails or refuses to testify or funish documentary evidence concerning any matter with respect to which a board desires information, the circuit court having jurisdiction in the county in which the university or college is situated, upon application by the board, may compel obedience by proceedings for contempt as in the case of disobedience of a subpoena issued from the circuit court or a refusal to testify therein. Each board may employ a professional hearing officer or appoint a*

committee of the board's choosing to have a hearing and file a finding of fact and recommendation with the board for their final actions. Charges against a president shall be preferred by the chairman of the board upon written information furnished to him, and charges against a faculty member shall be preferred in writing by the president unless the offense is committed in his presence.

(4) Any final order of the board either upholding or invalidating the dismissal, suspension, or other penalization of an employe with status may be appealed either by the employe or by the appointing authority.

(5) The party aggrieved may, within thirty (30) days after the entry of the final order with which he is dissatisfied, appeal that order by filing a petition with the clerk of the circuit court having jurisdiction. The petition shall state completely the grounds upon which the review is sought and shall specify the alleged errors in the board's findings.

(6) The case shall be set down by the court for as early a day as possible for a hearing and shall in all respects be expedited.

(7) The court shall otherwise hear the case upon the record or attested by the secretary of the personnel board and shall in all respects dispose of the appeal in a summary manner. His review shall be limited to determine whether or not:

(a) The board acted without or in excess of its power;

(b) The order appealed from was procured by fraud or misconduct;

(c) Substantial evidence supports the order appealed from;

(d) The board's decision is supported by the law.

(8) Any party may appeal from the circuit court to the Court of Appeals in accordance with the Rules of Civil Procedure, and such appeals shall have precedence of other cases pending in the Court of Appeals.

The Committee Amendment to **HB 383** is as follows:

Amend printed copy of **HB 383,** page 1, lines 4 and 5, by striking the words "*or on it's own action*".

The Committee on Rules reported **HJR 24, HCR 14, HB 11** with Committee Amendment attached thereto, **HB 129, HB 248** with Committee Amendment attached thereto, **HB 406, HB 447, HB 455, HB 526, HB 532, HB 540, HB 549, HB 558** with Committee Amendments attached thereto, **HB 563, HB 569, SB 28, SB 99, SB 119,** and **SB 141** have been posted for passage in Orders of the Day, March 3, 1976.

The Committee on Rules reported **HB 68,** with Committee Amendment attached thereto, has been recommitted to the Committee on Appropriations and Revenue.

Posting of Bills and Resolutions for Consideration

The following Bills and Resolutions have been posted for Committee consideration:

Banking and Insurance: **HB 413, HB 460.**

Cities: **HB 672, HB 687.**

Counties and Special Districts: **HB 594, HB 638.**

Education: **HJR 71.**

Public Utilities and Transportation: **HB 671, HR 55.**

Calendar

HB 148, HB 172, HB 173, HB 277, HB 467, HB 564, HB 599, HB 646, and **SB 17** taken from the Calendar and ordered read at length for the second time. Representative B. Richardson moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Motions, Petitions and Communications

Representative Cooper requested that he be recorded as voting "yea" on **HB 498, HB 499, SB 85,** and **HB 347.**

Representative LeMaster moved the adoption of the following **HR 79:**

HR 79, A RESOLUTION honoring Millersburg Military Institute.

WHEREAS, Millersburg Military Institute is the only remaining military college-preparatory school in the Commonwealth of Kentucky and has served the youth of our state and nation with distinction for over 83 years; and

WHEREAS, the said institute has adhered to a tradition of excellence in academic and leadership training throughout its long existence and has developed the character of thousands of youths and assisted them in attaining positions of responsibility in their respective communities throughout the world; and

WHEREAS, it has been a bastion of good citizenship, motivation, leadership, and Christian fellowship; and

WHEREAS, it has fielded championship teams on the playing fields of Kentucky in pursuit of both physical development and good sportsmanship and it has produced in its role as a training ground, hundreds of valiant soldiers, sailors and airmen serving our nation in peace and in war on the fields of life; and

WHEREAS, the motto of the school "Right Training is Better Than Riches" is as applicable today as it was 83 years ago and it is appropriate in this bicentennial year of 1976 that Millersburg Military Institute should be recognized for its long and distinguished service;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That on Thursday, April 15, the House of Representatives and the executive offices of this great Commonwealth recognize the invaluable contribution made to education in Kentucky by Millersburg Military Institute.

Section 2. That the House of Representatives does petition the governor to declare April 15, 1976 Millersburg Military Institute Day in Kentucky.

Section 3. That a copy of this resolution be forwarded by the Clerk of the House to the Governor and to the headmaster of Millersburg Military Institute.

HR 79 was adopted by voice vote.

The following members filed Floor Amendments to Bills: Representative Richards, Floor Amendment No. 1 to **HB 248;** Representative Gray, Floor Amendment No. 1 to **HB 727;** Representative Siemens, Floor Amendment No. 1 to **HB 539;** Representative B. Richardson, Floor Amendment No. 1 to **HB 533;** Representative Romines, Floor Amendment No. 4 to HB 168; Representative Yates, Floor Amendment No. 1 to **HB 120.**

Representative Givhan moved the adoption of the following Legislative Citation No. 22:

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors Mrs. Anne Coots of Taylorsville, Kentucky, whose inspirational slogan "Kentucky-Any reason...Any season" was chosen as Kentucky's new promotional trademark for the tourist industry. This body commends Mrs. Coots' longstanding devotion to Kentucky's state parks and applauds the selection of her slogan as an attraction to the Commonwealth. (Sponsored by Representative Givhan)

Agreed.

Representative Imes moved that the vote on **SB 150** be reconsidered.

On the roll call the vote was yeas 53-B. Adams, J. Allen, Arnold, Bendl, Bennett, Benson, Bevins, Blandford, Boatwright, Brinkley, Brown, Bruce, Burnette, Clarke, Craddock, Cyrus, DeFalaise, DeMarcus, Deskins, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Floyd, Foster, Givhan, Gray, Guenthner, Hughes, Imes, Isler, Jones, Kidd, King, LeMaster, May, Maynard, McBee, Morris, Pearl, Priddy, Richards, B. Richardson, Romines, Stephens, Stewart, Tobin, Thomas, Vincent, Wells, White, Wooden. Nays 23-Ackerson, A. S. Adams, Beshear, Blair, Carpenter, Cooper, Crupper, Denham, Head, Holbrook, Holloway, Hopkins, Mason, McGill, Muncy, O'Brien, Overstreet, Rattliff, Robinson, Sale, Siler, R. Turner, Wible.

The motion that the vote on **SB 150** be reconsidered was adopted.

Representative Denham moved that the vote on **HB 171** be reconsidered and that it be placed in Orders of the Day.

On the roll call the vote was yeas 54-Ackerson, B. Adams, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blandford, Blume, Blythe, Boatwright, Brinkley, Brown, Bruce, Carpenter, Clarke, Cooper, Craddock, Dawahare, DeFalaise, DeMarcus, Denham, Deskins, Donnermeyer, Doss, Fitzgerald, Floyd, Givhan, Gray, Guenthner, Hughes, Hurst, Imes, Isler, Jones, Kidd, LeMaster, Mann, May, McGill, Morris, Richards, B. Richardson, P. Richardson, Schmidt, Siemens, Stephens, Tobin, Thomas, White, Wible, Wooden, Yates. Nays 22-J. Allen, Blair, Crupper, Cyrus, Dunn, Foster, Freeman, Hardwick, Holbrook, Holloway, Hopkins, Little, Mason, Muncy, O'Brien, Pearl, Rattliff, Sale, Siler, R. Turner, Vincent, Wright.

The motion that the vote on **HB 171** be reconsidered was adopted.

Representative Romines moved that **HB 168** be taken from the Clerk's desk and placed in Orders of the Day.

On the roll call the vote was yeas 44-Ackerson, W. Allen, Bennett, Blair, Boatwright, Brinkley, Bruce, Burnette, Cooper, Cyrus, Dawahare, DeFalaise, DeMarcus, Denham, Deskins, Dunn, Freeman, Gay, Gray, Guenthner, Hardwick, Holloway, Hughes, Hurst, Imes, Isler, Little, May, O'Brien, Pearl, Priddy, Rattliff, Richards, Robinson, Romines, Sale, Siemens, Siler, Stewart, Thomas, Vincent, Wooden, Wright, Yates. Nays 22-A. S. Adams, Bendl, Benson, Beshear, Blandford, Blume, Carpenter, Craddock, Crupper, Doss, Fitzgerald, Foster, Kidd, Mason, McBee, McBride, McGill, Morris, B. Richardson, Stephens, Tobin, Wible.

The motion that **HB 168** be taken from the Clerk's desk and placed in Orders of the Day was adopted.

Representative Blandford moved that the rules be suspended for the purpose of Posting Bills and Resolutions and waiving the time period for posting **SB 211, SB 155,** and **HB 626.**

On the roll call the vote was yeas 63-Ackerson, B. Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Bevins, Blair, Blandford, Blume, Boatwright, Brinkley, Burnette, Carpenter, Cooper, Cyrus, DeFalaise, Deskins, Dietz, Doss, Dunn, Fitzgerald, Floyd, Foster, Freeman, Gay, Givhan, Gray, Guenthner, Hardwick, Head, Imes, Isler, Kidd, LeMaster, Lindsay, Little, Mann, Mason, May, Maynard, McBride, McGill, Pearl, Priddy, Rattliff, Richards, B. Richardson, Romines, Sale, Stephens, Stewart, Tobin, Thomas, R. Turner, Vincent, White, Wible, Wooden, Wright, Yates. Nays 0.

The motion that the rules be suspended was adopted.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Agriculture and Natural Resources: **SB 211, SB 155, HB 626.**

Motions, Petitions and Communications (continued)

Representative Fitzgerald requested that his vote be changed from "nay" to "yea" on **HB 407.** Agreed.

Representative Deskins moved the adoption of the following Legislative Citation No. 40:

The House of Representatives of the Commonwealth of Kentucky hereby honors the Pike County Maintenance Crew on their selection by the Bureau of Highways as the outstanding maintenance crew of the year in the Commonwealth of Kentucky. This body commends the outstanding efforts of the entire crew in repairing road areas along Elkhorn Creek and Marrowbone Creek and their many other accomplishments, and recognizes this group of men as superlative citizens of the Commonwealth. (Sponsored by Representatives Deskins and Little)

Agreed.

Orders of the Day

SB 60 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

On the roll call the vote was yeas 84-Ackerson, B. Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blandford, Blythe, Boatwright, Brinkley, Brown, Bruce, Burnette, Carpenter, Clarke, Cooper, Craddock, Crupper, Cyrus, Dawahare, DeFalaise, DeMarcus, Denham, Donnermeyer, Doss, Dunn, Fitzgerald, Floyd, Foster, Givhan, Gray, Guenthner, Hardwick, Head, Holbrook, Holloway, Hopkins, Hughes, Hurst, Imes, Isler, Jones, Kidd, King, Kleier, LeMaster, Lindsay, Mann, Mason, Maynard, McBee, McGill, Morris, Muncy, Nett, O'Brien, Overstreet, Pearl, Priddy, Rattliff, B. Richardson, P. Richardson, Robinson, Romines, Sale, Schmidt, Siemens, Siler, Stephens, Stewart, Tobin, Thomas, R. Turner, Vincent, Wells, White, Wible, Wooden, Wright, Yates. Nays 2-Hancock, Stephens.

SB 60 was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **SB 60** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

SB 117 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

On the roll call the vote was yeas 94-Ackerson, B. Adams, A. S. Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blandford, Blume, Blythe, Boatwright, Brinkley, Brown, Bruce, Burnette, Clarke, Cooper, Craddock, Crupper, Cyrus, Dawahare, DeFalaise, DeMarcus, Denham, Deskins, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Floyd, Foster, Freeman, Gay, Givhan, Gray, Guenthner, Hancock, Hardwick, Head, Holbrook, Holloway, Hopkins, Hughes, Hurst, Imes, Isler, Jones, Kidd, King, Kleier, LeMaster, Little, Mann, Mason, May, Maynard, McBee, McBride, McGill, Morris, Muncy, Nett, O'Brien, Overstreet, Pearl, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Robinson, Romines, Sale, Schmidt, Siemens, Siler, Stephens, Stewart, Tobin, Thomas, R. Turner, Vincent, Wells, White, Wible, Wooden, Wright, Yates. Nays 0.

SB 117 was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **SB 117** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 544, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Wible moved the adoption of the Committee Amendment to **HB 544.** Agreed.

Representative Wible moved that **HB 544,** as amended, be passed.

On the roll call the vote was yeas 90-B. Adams, A. S. Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blandford, Blythe, Boatwright, Brinkley, Brown, Bruce, Burnette, Carpenter, Clarke, Craddock, Crupper, Cyrus, Dawahare, DeFalaise, DeMarcus, Denham, Deskins, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Floyd, Foster, Givhan, Gray, Guenthner, Hancock, Hardwick, Head, Holbrook, Holloway, Hopkins, Hughes, Hurst, Imes, Isler, Jones, Kidd, King, Kleier, LeMaster, Lindsay, Little, Mann, Mason, May, Maynard, McBee, McBride, McGill, Morris, Muncy, Nett, O'Brien, Overstreet, Pearl, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Robinson, Romines, Sale, Schmidt, Siler, Stephens, Stewart, Tobin, Thomas, R. Turner, Vincent, Wells, White, Wible, Wooden, Wright, Yates. Nays 1-Cooper.

HB 544, as amended, was passed and the title agreed to.

Representative Wible moved that the vote by which **HB 544,** as amended, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

SB 91 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Imes moved the adoption of the following Floor Amendment No. 2 to **SB 91:**

Amend printed copy of **SB 91,** page 1, on lines 12 and 13, by bracketing eight dollars ($8.00) , and adding the words *ten dollars ($10.00)* so that lines 12 and 13 will read *$20.00* eighteen dollars ($18.00) ; pages *ten dollars ($10.00)* eight dollars ($8.00) each.

Agreed.

Representative B. Richardson moved that **SB 91,** as amended, be passed.

On the roll call the vote was yeas 87-B. Adams, A. S. Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blandford, Blythe, Brown, Burnette, Carpenter, Cooper, Craddock, Crupper, Cyrus, Dawahare, DeFalaise, DeMarcus, Denham, Deskins, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Floyd, Foster, Givhan, Gray, Guenthner, Hancock, Hardwick, Head, Holbrook, Holloway, Hopkins, Hughes, Hurst, Imes, Isler, Jones, Kidd, King, Kleier, LeMaster, Lindsay, Little, Mann, Mason, May, Maynard, McBee, McBride, McGill, Morris, Muncy, Nett, O'Brien, Overstreet, Pearl, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Robinson, Romines, Sale, Schmidt, Siemens, Siler, Stephens, Stewart, Tobin, R. Turner, Vincent, Wells, White, Wible, Wooden, Wright, Yates. Nays 0.

SB 91, as amended, was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **SB 91,** as amended, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

SB 122 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Beshear moved that **SB 122** be passed.

On the roll call the vote was yeas 67-B. Adams, J. Allen, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blandford, Blythe, Boatwright, Brown, Carpenter, Clarke, Cooper, Crupper, Cyrus, Dawahare, DeFalaise, DeMarcus, Denham, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Floyd, Foster, Givhan, Gray, Hancock, Head, Hopkins, Hughes, Hurst, Isler, Kidd, King, Kleier, LeMaster, Lindsay, Little, Mann, May, McBee, McBride, McGill, Muncy, Nett, Overstreet, Priddy, Richards, B. Richardson, P. Richardson, Romines, Sale, Siemens, Siler, Stephens, Stewart, Tobin, Vincent, Wells, Wible, Wooden, Wright, Yates. Nays 15-W. Allen, Brinkley, Bruce, Burnette, Guenthner, Holbrook, Holloway, Imes, Jones, Mason, Morris, O'Brien, Rattliff, Robinson, R. Turner.

SB 122 was passed and the title agreed to.

Representative Beshear moved that the vote by which **SB 122** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 338, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative B. Richardson moved the adoption of the Committee Amendment No. 2 to **HB 338.** Agreed.

Representative B. Richardson moved that **HB 338,** as amended, be passed.

On the roll call the vote was yeas 73-B. Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blandford, Blythe, Boatwright, Bruce, Clarke, Cooper, Craddock, Cyrus, DeFalaise, DeMarcus, Denham, Deskins, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Floyd, Gray, Guenthner, Hancock, Hardwick, Head, Holbrook, Holloway, Hopkins, Hughes, Imes, Isler, Jones, Kidd, Kleier, LeMaster, Little, Mann, Mason, McGill, Morris, Muncy, Nett, O'Brien, Overstreet, Pearl, Priddy, Rattliff, Richards, B. Richardson, Romines, Sale, Schmidt, Siemens, Siler, Stephens, Stewart, Tobin, R. Turner, Vincent, Wells, White, Wible, Wooden, Wright, Yates. Nays 8-Brinkley, Brown, Burnette, Crupper, Dawahare, King, P. Richardson, Thomas.

HB 338, as amended, was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **HB 338,** as amended, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 416, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Jones moved the adoption of the Committee Amendment to **HB 416.** Agreed.

Representative Jones moved that **HB 416,** as amended, be passed.

On the roll call the vote was yeas 89-Ackerson, B. Adams, A. S. Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blandford, Blythe, Boatwright, Brown, Bruce, Burnette, Carpenter, Clarke, Cooper, Craddock, Crupper, Cyrus, Dawahare, DeFalaise, DeMarcus, Denham, Deskins, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Floyd, Freeman, Gay, Givhan, Gray, Guenthner, Hancock, Hardwick, Head, Holbrook, Holloway, Hopkins, Hughes, Hurst, Imes, Isler, Jones, Kidd, King, Kleier, LeMaster, Lindsay, Little, Mann, Mason, May, Maynard, McBee, Morris, Muncy, Nett, O'Brien, Overstreet, Pearl, Priddy, Rattliff, Richards, P. Richardson, Robinson, Romines, Sale, Schmidt, Siemens, Siler, Stephens, Stewart, Tobin, Thomas, R. Turner, Vincent, White, Wible, Wooden, Wright, Yates. Nays 0.

HB 416, as amended, was passed and the title agreed to.

Representative Jones moved that the vote by which **HB 416,** as amended, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 488 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Beshear moved that **HB 488** be passed.

On the roll call the vote was yeas 89-Ackerson, B. Adams, A. S. Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blandford, Blythe, Boatwright, Brinkley, Brown, Bruce, Burnette, Carpenter, Cooper, Craddock, Crupper, Cyrus, Dawahare, DeFalaise, DeMarcus, Denham, Deskins, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Floyd, Freeman, Gay, Givhan, Gray, Guenthner, Hancock, Hardwick, Head, Holbrook, Holloway, Hopkins, Hughes, Imes, Isler, Jones, Kidd, King, Kleier, LeMaster, Lindsay, Little, Mann, Mason, May, Maynard, McBee, McGill, Morris, Muncy, Nett, O'Brien, Overstreet, Pearl, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Robinson, Romines, Sale, Schmidt, Siler, Stewart, Tobin, Thomas, R. Turner, Vincent, Wells, White, Wible, Wooden, Wright, Yates. Nays 1-Foster.

HB 488 was passed and the title agreed to.

Representative Beshear moved that the vote by which **HB 488** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 489, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Beshear moved the adoption of the Committee Amendment to **HB 489.** Agreed.

Representative Beshear moved that **HB 489,** as amended, be passed.

On the roll call the vote was yeas 90-Ackerson, B. Adams, A. S. Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blandford, Blume, Blythe, Boatwright, Brinkley, Bruce, Carpenter, Clarke, Cooper, Craddock, Crupper, Cyrus, Dawahare, DeFalaise, DeMarcus, Denham, Deskins, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Floyd, Foster, Freeman, Gay, Givhan, Gray, Guenthner, Hancock, Hardwick, Head, Holbrook, Holloway, Hopkins, Hughes, Imes, Isler, Jones, Kidd, King, Kleier, LeMaster, Lindsay, Little, Mann, Mason, May, Maynard, McBee, McBride, McGill, Morris, Muncy, Nett, O'Brien, Overstreet, Pearl, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Robinson, Romines, Sale, Schmidt, Siemens, Siler, Stewart, Tobin, R. Turner, Vincent, Wells, White, Wible, Wooden, Wright. Nays 0.

HB 489, as amended, was passed and the title agreed to.

Representative Beshear moved that the vote by which **HB 489,** as amended, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 260, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Freeman moved the adoption of the Committee Amendment No. 1 to **HB 260.** Agreed.

Representative Freeman moved that **HB 260,** as amended, be passed.

On the roll call the vote was yeas 82-Ackerson, A. S. Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Beshear, Bevins, Blair, Blandford, Blume, Boatwright, Brinkley, Brown, Bruce, Burnette, Carpenter, Clarke, Cooper, Crupper, Cyrus, DeFalaise, DeMarcus, Denham, Deskins, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Floyd, Freeman, Gay, Gray, Hancock, Hardwick, Head, Holbrook, Holloway, Hopkins, Hughes, Imes, Isler, Jones, Kidd, King, LeMaster, Lindsay, Little, Mann, Mason, May, Maynard, McBee, McGill, Morris, Muncy, Nett, O'Brien, Overstreet, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Robinson, Romines, Sale, Siemens, Siler, Stephens, Stewart, Tobin, Thomas, R. Turner, Vincent, Wells, White, Wible, Wooden, Wright. Nays 1-Guenthner.

HB 260, as amended, was passed and the title agreed to.

Representative Freeman moved that the vote by which **HB 260,** as amended, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 514 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Crupper moved that **HB 514** be passed.

On the roll call the vote was yeas 76-Ackerson, B. Adams, A. S. Adams, J. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blandford, Blume, Brown, Bruce, Burnette, Carpenter, Clarke, Cooper, Craddock, Crupper, Cyrus, DeFalaise, Denham, Deskins, Dietz, Doss, Dunn, Fitzgerald, Floyd, Foster, Gay, Givhan, Gray, Guenthner, Head, Holbrook, Hughes, Imes, Isler, Jones, Kidd, King, LeMaster, Lindsay, Little, Mann, Mason, May, Maynard, McBee, McBride, McGill, Morris, Muncy, Nett, O'Brien, Overstreet, Pearl, Priddy, Richards, B. Richardson, P. Richardson, Romines, Sale, Siemens, Siler, Stewart, Tobin, Thomas, Vincent, Wells, White, Wible, Wooden, Wright. Nays 6-W. Allen, Blythe, DeMarcus, Hancock, Hardwick, Robinson.

HB 514 was passed and the title agreed to.

Representative Crupper moved that the vote by which **HB 514** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 548, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Mason moved the adoption of the Committee Amendment to **HB 548.** Agreed.

Representative Mason moved that **HB 548,** as amended, be passed.

Representative McBee moved that **HB 548,** as amended, be laid on the table.

On the roll call the vote was yeas 21-J. Allen, Bendl, Blume, Blythe, Burnette, Crupper, Cyrus, Dietz, Foster, Gray, Isler, Jones, Mann, McBee, McBride, Pearl, P. Richardson, Schmidt, Stephens, Stewart, Wright. Nays 46-Ackerson, B. Adams, A. S. Adams, Arnold, Bennett, Beshear, Blair, Brinkley, Bruce, Clarke, Cooper, Dawahare, Deskins, Doss, Fitzgerald, Givhan, Guenthner, Head, Holbrook, Holloway, Hopkins, Hughes, Imes, Kidd, LeMaster, Little, Mason, May, Maynard, McGill, Morris, Muncy, Nett, O'Brien, Overstreet, Richards, B. Richardson, Robinson, Romines, Sale, Siler, Tobin, R. Turner, Vincent, White, Wible.

The motion that **HB 548,** as amended, be laid on the table was rejected.

Representative Mason moved that **HB 548,** as amended, be laid on the Clerk's desk.

On the roll call the vote was yeas 72-Ackerson, B. Adams, A. S. Adams, J. Allen, W. Allen, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blume, Blythe, Boatwright, Brown, Burnette, Carpenter, Clarke, Craddock, Crupper, Cyrus, Dawahare, DeFalaise, DeMarcus, Deskins, Dietz, Donnermeyer, Doss, Dunn, Floyd, Foster, Gay, Gray, Hancock, Hardwick, Holbrook, Holloway, Hopkins, Hurst, Isler, Jones, King, Kleier, LeMaster, Lindsay, Little, Mann, Mason, Maynard, McBee, McBride, McGill, Muncy, Nett, O'Brien, Overstreet, Pearl, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Robinson, Romines, Sale, Schmidt, Siemens, Thomas, R. Turner, Vincent, Wooden, Wright. Nays 10-Brinkley, Bruce, Fitzgerald, Guenthner, Head, Hughes, Imes, Morris, Tobin, Wible.

The motion that **HB 548,** as amended, be laid on the Clerk's desk was adopted.

HB 568 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative B. Richardson moved the adoption of the following Floor Amendment No. 1 to **HB 568:**

Amend printed copy of **HB 568,** page 4, after line 6, by adding the following words:

"Section 4. KRS 342.730 is amended to read as follows:

(1) Income benefits for disability shall be paid to the employe as follows, subject to the maximum and minimum limits specified in KRS 342.740:

(a) For total disability, 55 per cent of his average weekly wage during such disability, and two and one-half per cent of his average weekly wage for each dependent up to a maximum of three.

(b) In all other cases of permanent partial disability, including any disfigurement which will impair the future usefulness or occupational opportunities of the injured employe, or employe disabled by an occupational disease, compensation shall be determined according to the percentage of disability, taking into account, among other things, any previous disability, the nature of the physical injury or disfigurement, the occupation of the injured employe and age at the time of injury or at the time the disability from an occupational disease began. The compensation paid therefor shall be 55 per cent of the average weekly earnings of the employe at the time of his injury and two and one-half per cent of his average weekly wage at the time of injury for each dependent up to a maximum of three, subject to the limitations contained in KRS 342.740, multiplied by the percentage of disability caused by the injury or occupational disease; provided, however, *that such compensation shall not exceed the maximum weekly benefits as provided in KRS 342.740 multiplied by the percentage of disability caused by the injury or occupational disease, nor shall such compensation be less than the minimum weekly benefits as provided in KRS 342.740 multiplied by the percentage of disability caused by the injury or occupational disease; provided further, however,* the individual entitled to benefits under permanent partial disability shall be entitled to compensation based on lost wages or body functional disability benefits, whichever is greater.

(c) For total permanent bodily loss or losses herein scheduled, after and in addition to the income benefits payable during the period of recovery, scheduled income benefits in the amount of 55 per cent of the average weekly wage as follows:

BODILY LOSS	WEEKS OF DISABILITY
1. Arm	340
2. Leg	340
3. Hand	312
4. Foot	216
5. Thumb	86
6. Index Finger	54
7. Middle Finger	43
8. Ring Finger	22
9. Little Finger	16
10. Great Toe	30
11. Second Toe	20
12. Third Toe	15
13. Fourth Toe	8
14. Fifth Toe	5
15. Total loss of binaural hearing	156
16. Total loss of vision of one eye	150
17. Total loss of bilateral vision	520
18. Total loss, or total loss of use, of both hands, both arms, both feet or both legs	520

19. Phalanges: For loss of distal phalanx, one-half of the income benefits for loss of the entire digit. For loss of more than the distal phalanx of a digit, the same as loss of the entire digit.

20. Two or more digits: For loss of two or more digits, or one or more phalanges of two or more digits, of a hand or foot, scheduled income benefits may be proportioned to the loss of use of the hand or foot occasioned thereby, but shall not exceed the scheduled income benefits for loss of a hand or foot.

21. Total loss of use: Scheduled income benefits for permanent total loss of use of a member shall be the same as for loss of the member.

22. Partial loss or partial loss of use: Scheduled income benefits for permanent partial loss of use of a member shall be for a period proportionate to the period benefits are payable for total loss or total loss of use of the member as such partial loss bears to total loss.

23. Loss of hearing or partial loss of bilateral vision: Scheduled income benefits for partial loss of vision in one or both eyes, or total loss of hearing in one ear, or partial loss of hearing in one or both ears shall be for a period proportionate to the period benefits are payable for total bilateral loss of vision or total binaural loss of hearing as such partial loss bears to total loss. The provisions of paragraphs (d) to (h) of subsection (2) of this section shall apply to scheduled losses of hearing.

24. In any case in which there shall be a loss or loss of use of more than one member or parts of more than one member set forth in subparagraphs 1. to 23. of this subsection, scheduled income benefits shall be for the loss of use of each such member or part thereof, with the periods of benefits to run consecutively.

25. Other losses: Proper and equitable scheduled income benefits shall be paid for serious permanent disfigurement of face, head, neck or other area normally exposed and for loss or loss of function of a major member or organ when such disfigurement or loss is of a kind likely to handicap the employe in securing or holding employment.

26. In any case of total or partial loss of use of a member or organ, of hearing or vision, or in any case of disfigurement, determination of the period for which scheduled income benefits are payable shall not be made until the maximum of healing and of restoration function has been attained.

27. If the effects of any of the injuries, or disabilities, from occupational diseases, or losses, mentioned in this section adversely affect a workman's ability to labor, or limit his occupational opportunities to obtain the kind of work he is customarily able to do; his compensation benefits shall not be limited to the amounts provided by this section, and he shall be awarded compensation benefits under some other applicable or appropriate section of this chapter which would provide more compensation benefits for his disability.

(2) Occupational deafness means permanent partial or permanent total loss of hearing of one or both ears caused by prolonged exposure to harmful noise in employment. The following provisions shall apply exclusively to loss of hearing compensable under this subsection:

(a) No claim for scheduled income benefits shall be heard until the lapse of six full consecutive calendar months after the termination of exposure to harmful noise in employment. The time limitation for the filing of claims for occupational deafness shall not begin to run earlier than the day following the termination date of such six months' period. The time for filing claim as provided under this paragraph shall be applicable not only in respect of the last employer, but also in respect of any prior employer who may have liability to pay compensation for the occupational deafness.

(b) No employer shall be liable for the payment of scheduled income benefits for occupational deafness unless the employe claiming benefits shall have worked for such employer in employment exposing the employe to harmful noise for a total period of at least 90 days.

(c) An employer, otherwise liable under this subsection, whose employment has contributed to any extent to an employe's occupational deafness shall be liable for the full extent of the deafness of the employe, unless such employer shall establish by competent evidence (including the results of a professionally controlled hearing test) the extent of the employe's deafness as it existed prior to exposure to harmful noise in the employer's employment. Upon such showing the employer shall be liable to the employe only for the proportion of the deafness attributable to employment by him. An employer liable to the employe for the full extent of the employe's occupational deafness may implead, in a compensation proceeding on the employe's claim, any prior employer or employers in whose employment the employe had been exposed to harmful noise, and if it should be found that the impleaded employer would have been liable to the employe under this subsection, had the employe proceeded against him, under the claim being adjudicated, the employer held liable shall be entitled to an award against the impleaded employer. The impleading of an employer shall be accomplished by notice on a form prescribed by the board. Such notice shall be sent to the impleaded employer and to the board. An award may be made in favor of the employer liable to the employe, and against the impleaded employer or employers, which award may be enforced in the same manner as awards to employes. The impleaded employer or employers shall bear equal shares with the employer of the employer's liability to the employe, unless the evidence warrants a different apportionment.

(d) Losses of hearing due to industrial noise for compensation purposes shall be confined to the frequencies of 500, 1,000, and 2,000 cycles per second. Loss of hearing ability for frequency tones above 2,000 cycles per second are not to be considered as constituting disability for hearing.

(e) The percent of hearing loss, for purposes of the determination of compensation claims for occupational deafness, shall be calculated as the average, in decibels, of the thresholds of hearing for the frequencies of 500, 1,000, and 2,000 cycles per second. Pure tone air conduction audiometric instruments, approved by nationally recognized authorities in this field, shall be used for measuring hearing loss. If the losses of hearing average 15 decibels or less in the three frequencies, such losses of hearing shall not then constitute any compensable hearing disability. If the losses of hearing average 82 decibels or more in the three frequencies, then the same shall constitute and be a total or 100 percent compensable hearing loss.

(f) In measuring hearing impairment, the lowest measured losses in each of the three frequencies shall be added together and divided by three to determine the average decibel loss. For every decibel of loss exceeding 15 decibels an allowance of one and one-half percent shall be made up to the maximum of 100 percent which is reached at 82 decibels.

(g) In determining the binaural percentage of loss, the percentage of impairment in the better ear shall be multiplied by five. The resulting figure shall be added to the percentage of impairment in the poorer ear and the sum of the two divided by six. The final percentage shall represent the binaural hearing impairment.

(h) Before determining the percentage of hearing impairment, in order to allow for the average amount of hearing loss from non-occupational causes found in the population at any given age, there shall be deducted from the total average decibel loss, one-half decibel for each year of the employe's age over 40 at the time of last exposure to industrial noise.

(i) No consideration shall be given to the question of whether or not the ability of an employe to understand speech is improved by the use of a hearing aid.

(3) The period of any scheduled income benefits payable under this section on account of any injury shall be reduced by the period of income benefits paid or payable under this chapter on account of a prior injury if scheduled income benefits in both cases are for disability of the same member or function, or different parts of the same member or function, and the scheduled income benefits payable on account of the subsequent disability in whole or in part would duplicate the scheduled income benefits payable on account of the pre-existing disability.

(4) When an employe, who has sustained disability compensable under this section, and who has filed a valid claim in his lifetime, dies from causes other than the injury before the expiration of the compensable period specified, the income benefits specified and unpaid at the individual's death, whether or not accrued or due at his death, shall be paid, under an award made before or after such death, for the period specified in this section, to and for the benefit of the persons within the classes at the time of death and in the proportions and upon the conditions specified in this section and in the order named:

(a) To the widow or widower, if there is no child under the age of 18 or incapable of self-support; or

(b) If there are both such a widow or widower and such a child or children one-half to such widow or widower and the other half to such child or children; or

(c) If there is no such widow or widower but such a child or children, then to such child or children; or

(d) If there is no survivor in the above classes, then the parent or parents wholly or partly actually dependent for support upon the decedent, or to other wholly or partly actually dependent relatives listed in paragraph (g) of subsection (1) of KRS 342.750 or to both, in such proportions as the board may provide by regulation."

Agreed.

Representative B. Richardson moved that **HB 568,** as amended, be passed.

On the roll call the vote was yeas 50-B. Adams, J. Allen, Arnold, Bendl, Bevins, Blair, Blythe, Boatwright, Bruce, Burnette, Carpenter, Craddock, Crupper, DeMarcus, Denham, Foster, Givhan, Guenthner, Hancock, Hardwick, Holbrook, Holloway, Hopkins, Hughes, Hurst, Imes, Jones, LeMaster, Lindsay, Mason, May, Maynard, Morris, O'Brien, Overstreet, Pearl, Rattliff, Richards, B. Richardson, P. Richardson, Robinson, Sale, Stephens, Stewart, Tobin, R. Turner, Vincent, Wells, White. Nays 34-Ackerson, A. S. Adams, W. Allen, Bennett, Beshear, Blandford, Blume, Brinkley, Brown, Cooper, Cyrus, Dawahare, Deskins, Dietz, Doss, Dunn, Fitzgerald, Gray, Isler, Kidd, King, Mann, McBee, Muncy, Nett, Priddy, Romines, Siemens, Siler, Thomas, Wible, Wooden, Wright, Yates.

HB 568, as amended, was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **HB 568,** as amended, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Report on Enrolled Bills

The Committee on Enrollment reported **SB 85** had been examined and found correctly enrolled. **SB 85** read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate.

Representative Morgan vacated the Chair.

The Speaker resumed the Chair.

Orders of the Day (continued)

HB 627 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lindsay moved that **HB 627** be passed.

On the roll call the vote was yeas 83-Ackerson, B. Adams, A. S. Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blandford, Blume, Blythe, Boatwright, Brown, Bruce, Burnette, Clarke, Cooper, Craddock, Crupper, Cyrus, Dawahare, DeFalaise, DeMarcus, Denham, Deskins, Donnermeyer, Dunn, Fitzgerald, Floyd, Foster, Gay, Givhan, Gray, Guenthner, Hancock, Hardwick, Head, Holbrook, Holloway, Hopkins, Hughes, Hurst, Imes, Isler, Jones, Kenton, Kidd, King, LeMaster, Lindsay, Little, May, McBee, McBride, Morgan, Morris, Muncy, Nett, Overstreet, Pearl, Priddy, Rattliff, Richards, P. Richardson, Robinson, Romines, Sale, Schmidt, Siler, Stephens, Tobin, R. Turner, Vincent, Wells, White, Wible, Wooden, Wright, Yates. Nays 0.

HB 627 was passed and the title agreed to.

Representative Lindsay moved that the vote by which **HB 627** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

SB 98 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

On the roll call the vote was yeas 74-B. Adams, J. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blandford, Boatwright, Brown, Bruce, Burnette, Carpenter, Clapp, Clarke, Cooper, Craddock, Crupper, Cyrus, DeMarcus, Denham, Dietz, Donnermeyer, Dunn, Fitzgerald, Floyd, Foster, Givhan, Gray, Guenthner, Hancock, Hardwick, Head, Holloway, Hopkins, Hughes, Hurst, Imes, Isler, Kenton, King, LeMaster, Little, Mann, Maynard, McBee, McBride, Morgan, Morris, Muncy, Nett, O'Brien, Overstreet, Pearl, Richards, B. Richardson, P. Richardson, Robinson, Romines, Sale, Siler, Stephens, Tobin, Thomas, R. Turner, Vincent, Wells, White, Wible, Wooden, Wright, Yates. Nays 5-W. Allen, DeFalaise, Holbrook, Lindsay, Schmidt.

SB 98 was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **SB 98** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative B. Richardson moved that consideration of **SB 101** be deferred and that it retain its position in Orders of the Day. Agreed.

SCR 6 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Denham moved that **SCR 6** be adopted.

On the roll call the vote was yeas 87-Ackerson, B. Adams, A. S. Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blandford, Blume, Blythe, Boatwright, Brinkley, Brown, Bruce, Burnette, Carpenter, Clapp, Clarke, Cooper, Craddock, Crupper, Cyrus, Dawahare, DeFalaise, DeMarcus, Denham, Deskins, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Floyd, Foster, Givhan, Gray, Guenthner, Hancock, Hardwick, Head, Holbrook, Holloway, Hopkins, Hughes, Hurst, Imes, Isler, Kenton, Kidd, King, Kleier, LeMaster, Little, Mann, May, Maynard, McBee, McBride, McGill, Morgan, Morris, Muncy, O'Brien, Overstreet, Rattliff, Richards, B. Richardson, P. Richardson, Romines, Sale, Schmidt, Siler, Tobin, Thomas, R. Turner, Vincent, Wells, White, Wible, Wooden, Wright, Yates. Nays 0.

SCR 6 was adopted and the title agreed to.

Representative B. Richardson moved that the vote by which **SCR 6** was adopted be reconsidered and said motion be postponed indefinitely. Agreed.

HB 251 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Clarke moved the adoption of the following Floor Amendment No. 1 to **HB 251:**

Amend printed copy of **HB 251,** page 1, line 6, by deleting the words "so mentally defective or mentally ill";

and on page 1, line 7, by deleting the words "that he will" and by inserting in lieu thereof the words "likely to", and by inserting between the word "others" and the word "and", the words "due to mental disease or defect";

and on page 1, line 9, by deleting the word "shall" and by inserting in lieu thereof the word "may"

Agreed.

Representative Clarke moved that **HB 251,** as amended, be passed.

On the roll call the vote was yeas 87-Ackerson, B. Adams, A. S. Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blair, Blandford, Blume, Boatwright, Brinkley, Brown, Bruce, Burnette, Carpenter, Clapp, Clarke, Cooper, Craddock, Cyrus, Dawahare, DeFalaise, DeMarcus, Denham, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Floyd, Foster, Givhan, Gray, Guenthner, Hancock, Hardwick, Head, Holbrook, Holloway, Hopkins, Hughes, Imes, Isler, Kenton, Kidd, King, Kleier, LeMaster, Little, Mann, May, Maynard, McBee, McBride, McGill, Morgan, Morris, Muncy, Nett, O'Brien, Overstreet, Pearl, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Robinson, Romines, Sale, Schmidt, Siler, Stephens, Tobin, Thomas, R. Turner, Vincent, Wells, White, Wooden, Wright, Yates. Nays 0.

HB 251, as amended, was passed and the title agreed to.

Representative Clarke moved that the vote by which **HB 251,** as amended, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative B. Richardson moved that consideration of **HB 61** be deferred and that it retain its position in Orders of the Day. Agreed.

HB 122, with Committee Substitute attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Yates moved the adoption of the Committee Substitute for **HB 122.** Agreed.

Representative Blume moved the adoption of the following Floor Amendment No. 1 to the Committee Substitute for **HB 122:**

Amend printed copy of Committee Substitute for **HB 122,** page 6, line 17, between the words "*hundred*" and "*thousand*" insert the word "*fifty*"; and between the words "*dollars*" and "*and*" insert "*($250,000)*" and delete "*($200,000)*".

Agreed.

Representative Blume moved the adoption of the following Floor Amendment No. 2 to the Committee Substitute for **HB 122:**

Amend printed copy of Committee Substitute for **HB 122,** page 7, following line 18, add: "Section 3. The effective date of this Act shall be January 1, 1977."

Agreed.

Representative DeMarcus moved the adoption of the following Floor Amendment No. 3 to the Committee Substitute for **HB 122:**

Amend printed copy of Committee Substitute for **HB 122,** page 2, line 24, by deleting the ";" after the word "person" and inserting in lieu thereof "."; and by adding the following: "*For the purpose of this act, a student certificate shall be issued on a no more restrictive basis than provided for by federal regulations regarding the employment of students;*"

Agreed.

Representative Yates moved that **HB 122,** by way of Committee Substitute as amended, be passed.

On the roll call the vote was yeas 54-Ackerson, J. Allen, Bendl, Bennett, Benson, Beshear, Blandford, Blume, Boatwright, Brinkley, Brown, Carpenter, Clapp, Clarke, Cooper, Cyrus, Deskins, Dietz, Donnermeyer, Doss, Dunn, Fitzgerald, Givhan, Gray, Hughes, Hurst, Imes, Isler, Jones, Kenton, Kidd, King, LeMaster, Lindsay, Mann, May, McBride, McGill, Morgan, Muncy, O'Brien, Overstreet, Priddy, Richards, B. Richardson, Robinson, Romines, Siemens, Siler, Stewart, Thomas, Wooden, Wright, Yates. Nays 23-W. Allen, Arnold, Bevins, Blythe, Craddock, Crupper, DeFalaise, Denham, Guenthner, Hancock, Holbrook, Holloway, Hopkins, Mason, Nett, Pearl, Rattliff, P. Richardson, Sale, Schmidt, Stephens, Tobin, Vincent.

HB 122, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Yates moved that the vote by which **HB 122,** by way of Committee Substitute as amended, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 361 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Overstreet moved the adoption of the following Floor Amendment No. 1 to **HB 361:**

Amend printed copy of **HB 361,** page 1, delete bracket before and on page 1, line 7; delete bracket after Constitution on page 1, line 8.

On the roll call the vote was yeas 45-Ackerson, A. S. Adams, W. Allen, Arnold, Bennett, Benson, Blair, Boatwright, Brinkley, Bruce, Clarke, Cooper, Crupper, Cyrus, Dawahare, DeFalaise, Denham, Deskins, Dietz, Doss, Foster, Freeman, Gray, Hopkins, Hughes, Imes, Isler, Little, May, Morgan, Muncy, Overstreet, Pearl, Priddy, P. Richardson, Robinson, Romines, Sale, Schmidt, Siler, R. Turner, Vincent, Wooden, Wright, Yates. Nays 23-Blandford, Blume, Blythe, Burnette, Dunn, Fitzgerald, Givhan, Guenthner, Hancock, Head, Holbrook, Holloway, Hurst, Jones, Lindsay, Mann, McBee, McBride, Stephens, Stewart, Tobin, Thomas, White.

The Floor Amendment No. 1 to **HB 361** was adopted.

Representative White moved that **HB 361,** as amended, be laid on the Clerk's desk. Agreed.

Recess

Representative B. Richardson moved that the House recess until 7:00 p.m.

On the roll call the vote was yeas 50-J. Allen, Arnold, Bendl, Bennett, Benson, Bevins, Blair, Blythe, Boatwright, Brinkley, Brown, Burnette, Carpenter, Cooper, Craddock, Dawahare, Denham, Deskins, Donnermeyer, Doss, Dunn, Foster, Givhan, Gray, Hancock, Head, Hughes, Hurst, Isler, Kenton, Little, Mann, Mason, McBee, McBride, Muncy, O'Brien, Rattliff, Richards, B. Richardson, Sale, Siemens, Stephens, Stewart, Thomas, R. Turner, Vincent, Wells, White, Yates. Nays 40-Ackerson, A. S. Adams, W. Allen, Beshear, Blandford, Blume, Bruce, Clarke, Crupper, Cyrus, DeFalaise, DeMarcus, Fitzgerald, Floyd, Freeman, Guenthner, Hardwick, Holbrook, Holloway, Hopkins, Imes, Jones, Kidd, King, LeMaster, Lindsay, May, McGill, Morgan, Morris, Nett, Overstreet, Priddy, P. Richardson, Robinson, Schmidt, Siler, Tobin, Wooden, Wright.

The motion to recess was adopted.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Orders of the Day (continued)

HB 456 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Morris moved the adoption of the following Floor Amendment No. 1 to **HB 456:**

Amend printed copy of **HB 456,** page 6, lines 21 and 22, following the words "in the", by deleting " *Franklin Circuit Court* ", and by deleting, on line 24, of page 6, " ".

Agreed.

Representative B. Richardson moved that **HB 456,** as amended, be passed.

On the roll call the vote was yeas 73-Ackerson, B. Adams, A. S. Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Bevins, Blandford, Blume, Blythe, Boatwright, Brinkley, Brown, Bruce, Burnette, Carpenter, Clapp, Cooper, Craddock, Cyrus, DeMarcus, Denham, Deskins, Donnermeyer, Doss. Fitzgerald, Floyd, Foster, Givhan, Gray, Guenthner, Hancock, Head, Holbrook, Hughes, Hurst, Imes, Isler, Jones, Kenton, King, Kleier, Lindsay, Little, Mann, Mason, May, McBee, McBride, Morgan, Morris, Muncy, O'Brien, Priddy, Richards, B. Richardson, P. Richardson, Robinson, Romines, Sale, Siemens, Siler, Stephens, Stewart, Thomas, Vincent, Wells, White, Wooden, Wright, Yates. Nays 10-Benson, Beshear, DeFalaise, Hopkins, LeMaster, Nett, Overstreet, Pearl, R. Turner, Wible.

HB 456, as amended, was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **HB 456,** as amended, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 527 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Benson moved that **HB 527** be passed.

On the roll call the vote was yeas 53-Ackerson, B. Adams, J. Allen, Arnold, Bendl, Benson, Bevins, Blandford, Blume, Blythe, Boatwright, Brown, Bruce, Cyrus, DeFalaise, Deskins, Donnermeyer, Doss, Foster, Givhan, Gray, Guenthner, Hancock, Holbrook, Hughes, Imes, Isler, Kenton, Kidd, King, Kleier, LeMaster, Little, Mann, May, McBee, McBride, McGill, Morgan, Morris, Nett, O'Brien, Priddy, Richards, B. Richardson, P. Richardson, Romines, Siemens, Stephens, Stewart, Wible, Wooden, Yates. Nays 26-W. Allen, Beshear, Brinkley, Burnette, Carpenter, Cooper, Craddock, DeMarcus, Denham, Fitzgerald, Hardwick, Head, Hopkins, Jones, Lindsay, Mason, Overstreet, Pearl, Rattliff, Robinson, Sale, Thomas, R. Turner, Vincent, Wells, Wright.

HB 527 was passed and the title agreed to.

Representative Benson moved that the vote by which **HB 527** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 533 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Gray moved that **HB 533** be passed.

On the roll call the vote was yeas 58-Ackerson, J. Allen, W. Allen, Bendl, Bennett, Benson, Beshear, Blandford, Blume, Boatwright, Brinkley, Brown, Burnette, Carpenter, Clapp, Cooper, Cyrus, DeMarcus, Denham, Deskins, Donnermeyer, Doss, Dunn, Fitzgerald, Givhan, Gray, Hancock, Head, Hughes, Imes, Isler, Kenton, Kidd, King, Kleier, LeMaster, Lindsay, Little, Mann, Mason, May, McBee, McBride, McGill, Morgan, Muncy, Nett, O'Brien, Pearl, Priddy, B. Richardson, Romines, Siemens, Stewart, Thomas, Wible, Wooden, Wright. Nays 15-B. Adams, DeFalaise, Foster, Guenthner, Hardwick, Holbrook, Hopkins, Rattliff, Richards, P. Richardson, Robinson, Sale, Stephens, R. Turner, White.

HB 533 was passed and the title agreed to.

Representative Gray moved that the vote by which **HB 533** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

SB 20 taken from Orders of the Day and ordered read at length for the third time. Representative Wells moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Holbrook moved that **SB 20** be passed.

On the roll call the vote was yeas 80-A. S. Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blandford, Blume, Blythe, Boatwright, Brinkley, Brown, Burnette, Carpenter, Clapp, Clarke, Cooper, Craddock, Cyrus, DeFalaise, DeMarcus, Denham, Deskins, Donnermeyer, Doss, Dunn, Fitzgerald, Floyd, Foster, Givhan, Gray, Guenthner, Hancock, Hardwick, Head, Holbrook, Hopkins, Hughes, Hurst, Imes, Isler, Jones, Kenton, Kidd, King, Kleier, LeMaster, Lindsay, Mann, Mason, May, McBee, McBride, McGill, Morgan, Morris, Muncy, Nett, O'Brien, Overstreet, Pearl, Priddy, Rattliff, P. Richardson, Romines, Sale, Siemens, Siler, Stephens, Stewart, Thomas, R. Turner, White, Wible, Wooden, Wright, Yates. Nays 5-B. Adams, Bruce, Richards, Robinson, Vincent.

SB 20 was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **SB 20** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative B. Richardson moved that consideration of **HB 539** be deferred and that it retain its position in Orders of the Day. Agreed.

HB 349 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Benson moved that **HB 349** be passed.

On the roll call the vote was yeas 67-Ackerson, W. Allen, Arnold, Bendl, Bennett, Benson, Bevins, Blandford, Blume, Blythe, Boatwright, Brinkley, Brown, Bruce, Carpenter, Clarke, Cooper, Cyrus, DeFalaise, DeMarcus, Denham, Deskins, Donnermeyer, Dunn, Floyd, Foster, Givhan, Gray, Guenthner, Hardwick, Head, Holbrook, Hughes, Imes, Isler, Jones, Kenton, Kidd, King, Kleier, Lindsay, Little, Mann, May, McBee, McBride, McGill, Morris, Muncy, Nett, O'Brien, Overstreet, Priddy, Rattliff, Richards, Robinson, Romines, Siemens, Siler, Stewart, Thomas, R. Turner, White, Wible, Wooden, Wright, Yates. Nays 15-B. Adams, A. S. Adams, J. Allen, Beshear, Burnette, Craddock, Doss, Fitzgerald, Hancock, Mason, Pearl, B. Richardson, P. Richardson, Stephens, Vincent.

HB 349 was passed and the title agreed to.

Representative Benson moved that the vote by which **HB 349** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 364 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

On the roll call the vote was yeas 55-Ackerson, J. Allen, W. Allen, Arnold, Bevins, Blandford, Blythe, Brown, Bruce, Burnette, Carpenter, Clapp, Craddock, DeFalaise, DeMarcus, Donnermeyer, Doss, Floyd, Foster, Givhan, Gray, Guenthner, Hancock, Head, Holbrook, Hopkins, Hurst, Imes, Jones, Kenton, Kleier, LeMaster, Lindsay, Little, Mann, Mason, May, Morgan, Morris, Overstreet, Pearl, Richards, B. Richardson, P. Richardson, Robinson, Sale, Siemens, Stephens, Stewart, Thomas, R. Turner, Vincent, Wells, White, Yates. Nays 28-A. S. Adams, Bendl, Bennett, Benson, Beshear, Blume, Boatwright, Brinkley, Clarke, Cooper, Denham, Deskins, Dunn, Fitzgerald, Hughes, Isler, Kidd, King, McBee, McBride, McGill, Muncy, Nett, O'Brien, Siler, Wible, Wooden, Wright.

HB 364 was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **HB 364** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 485 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative B. Adams moved that **HB 485** be passed.

On the roll call the vote was yeas 54-Ackerson, B. Adams, Arnold, Bendl, Bevins, Blandford, Blume, Brinkley, Bruce, Carpenter, Clapp, Clarke, Craddock, DeFalaise, DeMarcus, Denham, Donnermeyer, Doss, Fitzgerald, Foster, Givhan, Guenthner, Head, Holbrook, Hopkins, Imes, Isler, Kenton, Kidd, Kleier, LeMaster, Mann, May, McBride, Morgan, Morris, Muncy, O'Brien, Pearl, Rattliff, Richards, B. Richardson, P. Richardson, Robinson, Romines, Sale, Siemens, Siler, Stephens, Thomas, R. Turner, Vincent, Wible, Wooden. Nays 26-A. S. Adams, J. Allen, W. Allen, Bennett, Benson, Boatwright, Burnette, Cooper, Deskins, Dunn, Floyd, Freeman, Gay, Hardwick, Hughes, Jones, Lindsay, Little, Mason, McGill, Nett, Overstreet, Stewart, Wells, White, Wright.

HB 485 was passed and the title agreed to.

Representative B. Adams moved that the vote by which **HB 485** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 160, with Committee Substitute attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative W. Allen moved the adoption of the Committee Substitute for **HB 160.** Agreed.

Representative W. Allen moved that **HB 160,** by way of Committee Substitute, be passed.

On the roll call the vote was yeas 78-Ackerson, B. Adams, A. S. Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blandford, Blythe, Boatwright, Brinkley, Bruce, Burnette, Carpenter, Clarke, Cooper, Craddock, DeFalaise, DeMarcus, Denham, Deskins, Doss, Dunn, Fitzgerald, Floyd, Freeman, Givhan, Gray, Guenthner, Hancock, Hardwick, Head, Holbrook, Hughes, Hurst, Imes, Isler, Jones, Kidd, King, Kleier, LeMaster, Lindsay, Little, Mann, Mason, May, McBee, McBride, McGill, Morgan, Morris, Muncy, O'Brien, Overstreet, Pearl, Rattliff, Richards, B. Richardson, P. Richardson, Robinson, Romines, Sale, Siemens, Siler, Stewart, Thomas, R. Turner, Vincent, Wells, White, Wible, Wooden, Wright. Nays 3-Blume, Hopkins, Stephens.

HB 160, by way of Committee Substitute, was passed and the title agreed to.

Representative W. Allen moved that the vote by which **HB 160,** by way of Committee Substitute, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative B. Richardson moved that consideration of **HB 436** and **HB 450** be deferred and that they retain their position in Orders of the Day. Agreed.

HB 478 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Givhan moved that **HB 478** be passed.

On the roll call the vote was yeas 82-Ackerson, B. Adams, A. S. Adams, J. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blandford, Blume, Blythe, Boatwright, Brinkley, Brown, Bruce, Burnette, Clapp, Clarke, Cooper, Craddock, DeFalaise, DeMarcus, Denham, Deskins, Donnermeyer, Doss, Dunn, Fitzgerald, Floyd, Foster, Givhan, Guenthner, Hancock, Hardwick, Head, Holbrook, Hopkins, Hughes, Hurst, Imes, Isler, Jones, Kenton, Kidd, King, Kleier, LeMaster, Lindsay, Mann, Mason, May, McBee, McBride, McGill, Morgan, Morris, Muncy, Nett, O'Brien, Overstreet, Pearl, Rattliff, Richards, B. Richardson, P. Richardson, Robinson, Romines, Sale, Siemens, Siler, Stephens, Stewart, Thomas, R. Turner, Vincent, Wells, White, Wible, Wooden, Wright. Nays 0.

HB 478 was passed and the title agreed to.

Representative Givhan moved that the vote by which **HB 478** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 480 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Morgan moved that **HB 480** be passed.

On the roll call the vote was yeas 78-Ackerson, B. Adams, A. S. Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blandford, Blume, Blythe, Boatwright, Brinkley, Brown, Bruce, Burnette, Carpenter, Clapp, Clarke, Cooper, DeFalaise, DeMarcus, Deskins, Doss, Dunn, Fitzgerald, Floyd, Foster, Givhan, Guenthner, Hancock, Head, Holbrook, Hopkins, Hughes, Hurst, Imes, Isler, Jones, Kenton, King, Kleier, LeMaster, Lindsay, Mann, Mason, May, McBee, McBride, McGill, Morgan, Morris, Muncy, Nett, Overstreet, Pearl, Rattliff, Richards, B. Richardson, P. Richardson, Robinson, Romines, Sale, Siemens, Siler, Stephens, Stewart, Thomas, R. Turner, Vincent, Wells, White, Wible, Wooden, Wright. Nays 2-Donnermeyer, Schmidt.

HB 480 was passed and the title agreed to.

Representative Morgan moved that the vote by which **HB 480** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 509 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hurst moved that **HB 509** be passed.

On the roll call the vote was yeas 76-Ackerson, B. Adams, A. S. Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blandford, Blythe, Boatwright, Brown, Bruce, Burnette, Carpenter, Clarke, Cooper, Craddock, DeFalaise, Deskins, Donnermeyer, Doss, Dunn, Fitzgerald, Floyd, Foster, Givhan, Hancock, Hardwick, Head, Holbrook, Hopkins, Hughes, Hurst, Isler, Jones, Kenton, Kidd, King, Kleier, LeMaster, Lindsay, Little, Mann, Mason, May, McBee, McBride, McGill, Morgan, Morris, Muncy, Nett, O'Brien, Overstreet, Pearl, Rattliff, Richards, B. Richardson, P. Richardson, Romines, Siemens, Siler, Stephens, Stewart, Thomas, R. Turner, Vincent, Wells, White, Wible, Wooden, Wright. Nays 1-Denham.

HB 509 was passed and the title agreed to.

Representative Hurst moved that the vote by which **HB 509** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 541 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Fitzgerald moved that **HB 541** be passed.

On the roll call the vote was yeas 79-Ackerson, B. Adams, A. S. Adams, J. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blandford, Blythe, Boatwright, Brown, Bruce, Burnette, Carpenter, Clapp, Clarke, Craddock, DeFalaise, Denham, Deskins, Donnermeyer, Doss, Dunn, Fitzgerald, Floyd, Foster, Givhan, Guenthner, Hancock, Hardwick, Head, Holbrook, Hopkins, Hughes, Imes, Isler, Jones, Kenton, Kidd, King, Kleier, LeMaster, Lindsay, Little, Mann, Mason, May, McBee, McBride, McGill, Morgan, Morris, Muncy, Nett, O'Brien, Overstreet, Pearl, Rattliff, Richards, B. Richardson, P. Richardson, Robinson, Romines, Sale, Siemens, Siler, Stephens, Stewart, Thomas, R. Turner, Vincent, Wells, White, Wible, Wooden, Wright. Nays 1-Cooper.

HB 541 was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **HB 541** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 574 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Kleier moved the adoption of the following Floor Amendment No. 1:

Amend printed copy of **HB 574,** page 1, line 12, by inserting after the word "fireman" the words "*or constable*"

Agreed.

Representative Kleier moved that **HB 574,** as amended, be passed.

On the roll call the vote was yeas 81-Ackerson, B. Adams, A. S. Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Bevins, Blandford, Blume, Blythe, Boatwright, Brinkley, Brown, Bruce, Burnette, Carpenter, Clapp, Clarke, Cooper, Craddock, DeFalaise, Denham, Deskins, Donnermeyer, Doss, Dunn, Fitzgerald, Foster, Givhan, Guenthner, Hancock, Hardwick, Head, Holbrook, Hopkins, Hughes, Hurst, Imes, Isler, Jones, Kenton, Kidd, King, Kleier, Little, Mann, Mason, May, McBee, McBride, McGill, Morgan, Morris, Muncy, Nett, O'Brien, Overstreet, Pearl, Rattliff, Richards, B. Richardson, P. Richardson, Robinson, Romines, Sale, Siemens, Siler, Stephens, Stewart, Thomas, R. Turner, Vincent, Wells, White, Wible, Wooden, Wright. Nays 2-LeMaster, Lindsay.

HB 574, as amended, was passed and the title agreed to.

Representative Kleier moved that the vote by which **HB 574,** as amended, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative B. Richardson moved that **SB 150** be taken from Orders of the Day and placed upon its passage. Rejected.

Representative B. Richardson moved that **HB 171, HB 168,** and **SB 150** be placed in Orders of the Day for today. Rejected.

Announcements

The following members filed Floor Amendments to Bills and Resolutions:

Representative Schmidt, Floor Amendment No. 1 to **HB 315;**

Representative McBride, Floor Amendment No. 1 to **HB 548;**

Representative Robinson, Floor Amendment No. 3 to **HB 20;**

Representative Blume, Floor Amendment No. 2 to **HB 548;**

Representative Hughes, Floor Amendment No. 2 to **HB 539;**

Representative McBee, Floor Amendment No. 3 to **HB 548;**

Representative B. Richardson, Floor Amendment No. 1 to **HB 549;** and

Representative Kleier, Floor Amendment No. 1 to **HB 546.**

Representative B. Adams requested that he be recorded as voting "yea" on **HB 122.**

Representative Ackerson requested that he be recorded as voting "yea" on **HB 338.**

Adjournment

Representative B. Richardson moved that the House adjourn until 2:00 p.m., Wednesday, March 3, 1976.

On the roll call the vote was yeas 51-Ackerson, A. S. Adams, W. Allen, Arnold, Bendl, Benson, Bevins, Blandford, Blume, Boatwright, Brinkley, Clapp, Clarke, Cooper, Craddock, Denham, Doss, Floyd, Foster, Givhan, Hancock, Head, Holbrook, Hopkins, Hughes, Hurst, Kenton, Kidd, King, Kleier, LeMaster, Lindsay, Mason, May, McBride, McGill, Morgan, Morris, Nett, O'Brien, Overstreet, Rattliff, B. Richardson, Sale, Schmidt, Stephens, Stewart, R. Turner, Vincent, White, Wible. Nays 26-J. Allen, Bennett, Beshear, Blythe, Burnette, DeFalaise, Deskins, Donnermeyer, Dunn, Fitzgerald, Freeman, Guenthner, Hardwick, Imes, Isler, Jones, Little, Mann, Muncy, Pearl, P. Richardson, Robinson, Romines, Siler, Wooden, Wright.

The motion to adjourn was adopted.